



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2019/117
Order No.: 039 (NBI/2021)
Date: 15 February 2021
Original: English

Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

BRANGLIDOR

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON CASE MANAGEMENT

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Miryoungh An, AAS/ALD/OHR, UN Secretariat
Romy Batrouni, AAS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant filed the current application on 8 August 2019 challenging a decision he characterized as the “failure in entitlements’ disbursements subsequent to separation from service”.

2. The Tribunal recalls its Order No. 027 (NBI/2021) by which it ordered the Respondent to provide, *inter alia*, documentary evidence and an explanation of the calculation of education grant payments and recoveries. The Respondent filed an explanatory submission and documentary evidence on 5 February 2021.

Considerations

3. The Tribunal accepts that the following payments are accounted for:

- a. Relocation grant;¹
- b. Settling in grant;²
- c. Repatriation grant;³

4. The Tribunal notes, moreover, that there is no dispute that the loan due to the United Nations Federal Credit Union is still outstanding, despite a submission of a document referring to an “external transfer” on account of the same loan.

5. Other matters, however, remain unclear.

6. The Tribunal accepts the Respondent’s explanation that the education grant claims and recoveries listed in the final pay slip of February 2020 concerned four of the Applicant’s children - GB, DB, DB and GDB, for the school year 2018-2019. Other than this, the Tribunal finds the submission on the issue of education grant

¹ Respondent’s submission of 22 December 2020, annex R/18.

² Respondent’s submission of 5 February 2021, annex R/30.

³ Respondent’s submission of 22 December 2020, annex R/20.

incomprehensible.

7. First, to the extent the Respondent cites the fact that “The Applicant’s final pay statement of 27 February 2020 includes items of “EG Claim” [education grant claim] of US\$ 56,779.26 and “EG ADV recovery” [education grant advance recovery] of US\$ 63,295.32”, the Tribunal finds that this statement furnishes neither the basis for the claim nor the recovery.

8. Second, the Respondent states at paragraph 4 of his 5 February 2021 submission that there was an adjustment of USD12,112.68 (USD9,122.16 + 2,990.52) which brought the education grant payment down from USD68,891.94 to USD56,779.26. The Respondent has now decided to return the USD2,990.52 adjustment to the Applicant⁴ in the form of an offset against the USD14,746.28 recovery for DB’s 2013-2014 education grant payment (USD14,746.28 – USD2,990.52 = USD11,755.76)⁵, despite a prior communication that the USD2,990.52 adjustment would be remitted to UNFCU.⁶ The Respondent does not explain why the adjustments were made in the first place; moreover, it is unclear where the credit eventually went and whether the notification formalities were adhered to.

9. Accepting that none of the annexes show there was a recovery of the USD14,746.28 for DB for the 2013-2014 school year, as set out in the sanction letter, the overall opacity of the education grant accounting does not allow the Tribunal to establish the basis upon which the USD63,295.32 recovery was made.

10. Noting that the Counsel appear to distance themselves from this part of their 5 February 2021 submission by indicating that the explanation was authored by the Regional Service Center Entebbe, the Tribunal is compelled to recall that the Respondent’s statements of fact are being made on behalf of the Secretary-General. It is not the concern of this Tribunal what unit from within the Secretariat originally provided information to Counsel; procedural responsibility for unclear, contradictory

⁴ Respondent’s submission of 5 February 2021, annex R/26 (Additional final pay simulation).

⁵ Respondent’s submission of 22 December 2020, para. 7(j).

⁶ Respondent’s submission of 5 February 2021, annex R/27

or otherwise insufficient statements of fact is attributed directly to the Secretary-General. Being aware of difficulties encountered by counsel in retrieving information across different channels, including the Mission, the RSCE and the Payroll Section, as evidenced also in other cases before it, the Tribunal has never refused granting additional time when so requested and encourages the Counsel to avail themselves of this means whenever necessary to ensure a quality submission.

11. The Tribunal further notes that it transpires from annex R/27 that despite the Applicant's repeated requests for clarification of his final payment, including calculation of the education grant, the Payroll Section, Department of Management Strategy, Policy and Compliance, which had sent the final pay to a wrong account in the first place, made availability of such clarification contingent upon the Applicant's debit authorization, which is improper and gives an impression that the Organization was unprepared to provide account of payments and deductions.

ORDERS:

12. The Respondent shall provide by 25 February 2021:

- a. In relation to figures contained in the February 2020 final pay slip - a detailed specification supplied with a plain language narrative, of all earnings and deductions except the ones mentioned in para. 3 of this Order, including the education grant claimed, actually dispensed and/or recovered with respect to each of the Applicant's children.
- b. An explanation of adjustments made.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 15th day of February 2021

Entered in the Register on this 15th day of February 2021

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi