



Before: Judge Alexander W. Hunter, Jr.
Registry: New York
Registrar: Morten Albert Michelsen, Officer-in-Charge

TEO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:
Michael Brazao, OSLA

Counsel for Respondent:
Jérôme Blanchard, HRLU/UNOG

Introduction

1. On 15 March 2017, the Applicant, a Human Rights Officer at the P-3 level, step 8, with the Office of the United Nations High Commissioner for Human Rights (“OHCHR”), filed an application in which she makes the following appeal:

As the present Application will make clear, the contested decision consists of two inextricably intertwined components.

Component “A”: The Applicant’s assignment by her employer, OHCHR, to a General Temporary Assistance (“GTA”) post contrary to the express terms of a post-matching exercise whereby she was informed in writing that she would be laterally transferred from her former post in the Asia-Pacific Section (“APS”) at the Geneva duty station of OHCHR to a regular-budgeted post in the Sustainable Development Goals (“SDG”) Section (formerly known as the Millennium Development Goals or “MDG” Section) at the New York duty station of OHCHR.

Component “B”: Failure of the Applicant’s employer to assign her appropriate functions commensurate with the SDG position she accepted in good faith pursuant to the above-referenced post-matching exercise.

2. On 17 March 2017, the Registry acknowledged receipt of the application on 15 March 2017 and, pursuant to art. 8.4 of the Rules of Procedure, transmitted it to the Respondent, instructing him to file a reply by 17 April 2017 in accordance with art. 10 of the Rules of Procedure.

3. On 17 April 2017, the Respondent filed his reply in which he submits that, in its entirety, the application is not receivable *ratione materiae* as none of the contested decisions constitute administrative decisions within the meaning of staff rule 11.2(a) or the Dispute Tribunal’s Statute and jurisprudence. Notwithstanding the submissions on receivability, the Respondent also contends that the application is without merit.

4. The present case was reassigned to Judge Alexander W. Hunter, Jr. on 8 January 2018.
5. By Order No. 10 (NY/2018) issued on 19 January 2018, the Tribunal instructed the Applicant to file a response to the Respondent's reply including on the submissions on non-receivability by 2 February 2018.
6. On 29 January 2018, the Applicant filed a motion for extension of time to file a response to the Respondent's reply. The Applicant informed the Tribunal that the Applicant's counsel went on leave on 18 January 2018 and returned on 29 January 2018, learning of the Tribunal's instructions in Order No. 10 (NY/2018) for the first time upon his return. Given these circumstances, the Applicant requested a one-week extension to the 2 February 2018 deadline so that the Applicant may benefit from the effective assistance of her counsel.
7. By Order No. 22 (NY/2018) issued on 31 January 2018, the Tribunal granted the Applicant's request for an extension of time and instructed the Applicant to file a response to the Respondent's reply, including on the submissions on non-receivability by 9 February 2018.
8. On 8 February 2018, the Applicant filed a response to the Respondent's reply.
9. On 12 February 2017, by Order No. 35 (NY/2018), the Tribunal instructed the parties to participate in a Case Management Discussion ("CMD") set down for 22 February 2018.
10. On 22 February 2018, the Tribunal conducted the scheduled CMD, at which counsel for the Applicant and counsel for the Respondent participated by telephone. The Applicant was present in person in the court room in New York. At the CMD, the Tribunal noted, *inter alia*, that the instant case appears to raise a preliminary issue

of receivability *ratione materiae*. Both parties agreed that receivability can be dealt with on the papers as a preliminary issue.

11. Pursuant to art. 19 of the Dispute Tribunal's Rules of Procedure, for the fair and expeditious disposal of the case and to do justice to the parties,

IT IS ORDERED THAT:

12. The Respondent shall file a reply to the Applicant's submissions on the receivability of the application by **5:00 p.m. on Monday, 5 March 2018**. In particular, the Respondent is to provide a detailed explanation in support of his contention that the "[t]he funding source of a staff members post is purely operational and does not impact the Applicant's terms of appointment", together with supporting documentation (including copies of the Applicant's terms of appointment before and after the contested decision).

13. The Applicant can file additional particulars and supporting evidence, if any, in relation to her claim that the contested decision has caused her "economic prejudice" by **5:00 p.m. on Monday, 5 March 2018**.

14. Closing submissions, if any, on the issue of receivability are due by **5:00 p.m. on Wednesday, 14 March 2018**.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 26th day of February 2018