



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/035

Order No.: 158 (NY/2020)

Date: 14 October 2020

Original: English

Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Nerea Suero Fontecha

ARVIZU TREVINO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON CASE MANAGEMENT

Counsel for Applicant:

Laurence C. Fauth

Counsel for Respondent:

Alan Gutman, ALD/OHR, UN Secretariat

Introduction

1. On 17 May 2019, the Applicant filed an application contesting correspondence from the Secretary of the Advisory Board on Compensation Claims (“ABCC”) advising him that his claim for compensation under Appendix D to the Staff Rules (“Appendix D”) was not receivable. As a remedy, the Applicant requests the Dispute Tribunal to remand the matter to the ABCC for consideration of the case.

2. On 30 June 2019, the Respondent filed his reply submitting that the application is moot and should be dismissed. The Respondent submits that on 19 June 2019, the Secretary of the ABCC advised the Applicant that he would be submitting his claim for consideration by the ABCC.

3. On 29 September 2020, the Applicant filed a further application contesting a decision dated 17 July 2020 to deny his compensation claim under Appendix D. This case was registered under Case No. UNDT/NY/2020/042.

4. On 6 September 2019, the Applicant filed a motion for summary judgment in the present Case No. UNDT/NY/2019/035.

5. At 3:05 p.m., on 7 October 2020, by way of Order No. 152 (NY/2020), the Tribunal directed the Respondent to file a response to the Applicant’s motion for summary judgment.

6. At 6:45 p.m., on 7 October 2020, the Applicant filed a motion requesting that the present case be consolidated with Case No. UNDT/NY/2020/042. In his motion, the Applicant contends *inter alia* that Case No. UNDT/NY/2019/035 and Case No. UNDT/NY/2020/042 raise common questions of fact and law.

Consideration

7. Having reviewed the Applicant's submissions, the Tribunal considers that although the present case is related to Case No. UNDT/NY/2020/042, the two cases do not concern common questions of law and fact. The present case relates to the ABCC's decision to consider the Applicant's request for compensation under Appendix D. The Respondent has submitted the application is moot as the Applicant has received his requested remedy, namely that his claim be submitted to the ABCC for consideration. Case No. UNDT/NY/2020/042, on the other hand, relates to the ABCC's final decision to deny the Applicant's claim for compensation following its consideration of the claim. The Applicant challenges the final decision of the ABCC on grounds of lawfulness of the policy underlying that decision.

8. Given the nature of the different legal and factual issues raised in Case No. UNDT/NY/2019/035 and Case No. UNDT/NY/2020/042, the Tribunal considers that it would not be in the interests of justice and judicial economy to consolidate these cases through an order for combined proceedings.

9. Pursuant to art. 19 of the Dispute Tribunal's Rules of Procedure and for a fair disposal of the case,

IT IS ORDERED THAT:

10. The request to consolidate this case with Case No. 2020/UNDT/NY/042 is refused.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 14th day of October 2020