



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2025/005
Order No.: 029 (NY/2025)
Date: 4 March 2025
Original: English

Before: Duty Judge
Registry: New York
Registrar: Isaac Endeley

SAMARASINHA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON TRANSFER

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Elizabeth Gall, UNDP

Introduction

1. On Saturday, 22 February 2025, the Applicant filed the present application with the New York Registry contesting the 22 November 2024 decision regarding the retroactive payment of his contributions to the Pension Fund and the health and life insurance scheme while on administrative leave without pay (“ALWOP”).

2. On Monday, 24 February 2025, the New York Registry reviewed the application and noted that it identified the Applicant’s current duty station as New York. Recalling that the Applicant has recently filed other cases with the Geneva Registry where his duty station was identified as Suva, Fiji, the New York Registry immediately sent the Applicant an email requesting him to clarify his duty station at the time the contested decision was made.

3. On the same day, the Applicant replied to the Registry as follows: “I am currently on leave funded against an HQ post in New York and have been at the time the contested decision was taken. My previous post was in Suva, Fiji”.

4. On 24 February 2025, the New York Registry notified the Duty Judge of the new case filing, accepted the application in the Court Case Management System (“CCMS”), and proceeded to serve it on the Respondent pursuant to art. 8.4 of the Dispute Tribunal’s Rules of Procedure.

5. On 25 February 2025, Counsel for the Respondent sent the New York Registry an email, with the Applicant copied, pointing out that the five previous cases filed by the Applicant have been assigned to the Geneva Registry and stating that the present application “incorrectly identifies the Applicant’s current duty station as New York”.

6. On 26 February 2025, the Applicant replied to the email from Counsel for the Respondent. He stated that “the contested decision in this particular filing was taken following [his] return to [the United Nations Development Programme – “UNDP”] and being placed on leave while funded against a UNDP HQ (New York) post”. He

added that he was “prepared to provide proof if required” and that if there was “no absolute bar under these circumstances”, he would request that the case be adjudicated in New York.

7. On the same day, the New York Registry requested the Applicant to “provide proof” of his duty station at the time the contested decision was made.

8. The Applicant replied later on the same day confirming that he currently has an open case in Geneva and stating that if the transfer of the present case to the Geneva Registry were “a matter of judicial economy rather than a procedural impediment”, then he would have no objection “if this matter is also assigned to the same judge for the purpose of preserving scarce judicial resources”. He also forwarded to the New York Registry a separate email exchange with the UNDP administration regarding his request for confirmation of his employment status.

9. Later on 26 February 2025, Counsel for the Respondent replied to the Applicant’s emails and explained that following the end of the Applicant’s secondment to the United Nations Secretariat, “he has not been selected or assigned to any position in UNDP” and that he “has no lien to any UNDP post”. Counsel for the Respondent also attached three official documents indicating that the Applicant’s current duty station is Colombo, Sri Lanka: (a) a Certificate of Employment dated 24 January 2025, (b) a Personnel Action Report dated 19 January 2025, and (c) a letter dated 19 February 2025 extending the Applicant’s ALWOP.

10. On 27 February 2025, the New York Registry provided all of the parties’ statements and contentions to the Duty Judge for his consideration.

Considerations

11. Pursuant to art. 19 of the Rules of Procedure of the Dispute Tribunal, the Tribunal may at any time issue any order or give any direction which appears to be appropriate for the fair and expeditious disposal of a case and to do justice to the parties.

12. The Tribunal recalls that under art. 15(a) of its Practice Direction No. 4 on Filing of Applications and Replies, the Geneva Registry is the appropriate venue for applications from staff members assigned at the time of the contested decision in duty stations located in Europe and Asia (including the Pacific).

13. The Tribunal has taken note of the Applicant's preference to have this case adjudicated in New York since he is "partially resident" in the United States with his family. However, having reviewed all of the arguments advanced by the parties since the filing of the present case with the New York Registry, particularly the official documents provided by Counsel for the Respondent, the Tribunal considers that it is appropriate and in the interest of justice to transfer the case to the Geneva Registry. The Tribunal is also satisfied that the Applicant will not be prejudiced by the transfer of the case to Geneva.

14. In light of the above,

IT IS ORDERED THAT:

15. Case No. UNDT/NY/2025/005 is hereby transferred to the Geneva Registry.

(Signed)

Judge Solomon Areda Waktolla

Dated this 4th day of March 2025

Entered in the Register on this 4th day of March 2025

(Signed)

Isaac Endeley, Registrar, New York