



Before: Judge Thomas Laker

Registry: Geneva

Registrar: René M. Vargas M.

KAMANIN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

N/A

Facts and procedural history

1. On 6 May 2014, the Applicant, who describes himself as a former United Nations staff member at the G-6 level separated on 30 June 2011, filed through the Dispute Tribunal's eFiling portal a one-page submission under the title "Harassment, retaliation, loss of health, disability, pension entitlements", by which he challenged a list of "acts" without further details, namely:

- 1) Abuse and Harassment in the workplace;
- 2) Deterioration and Loss of health caused by Abuse and Harassment in the workplace;
- 3) Wrongful Termination (IN RETALIATION);
- 4) Inadequate medical insurance support;
- 5) Unprofessionalism and Tardiness of Pension Fund staff (including failure to address any claims);
- 6) Unprofessionalism and Tardiness of the Head Staff at the Medical Insurance Department;
- 7) Threatening of forfeiture of the Pension Benefits;
- 8) Individuals acting in bad faith and in malice;
- 9) Moral Damages stemming both from the paragraphs enumerated above individually, as well as stemming from the overall claim as a whole.

2. On 7 May 2014, the Geneva Registry of the Tribunal notified the Applicant that his submission had been registered under Case No. UNDT/GVA/2014/019 and that further information was needed to take further action, namely that he had to file an application in accordance with the *Guidelines on filing a submission through the eFiling portal*. In particular, the Applicant was requested to file an application using the correct form, with all relevant supporting documentation, including copies of the administrative decision(s) being contested and of his request(s) for management evaluation, as applicable. He was further informed that should he require additional time to file an application, he should submit "at the

earliest a duly completed ‘Motion for Extension of Time to File an Application’ using the [relevant] Tribunal’s form”.

3. On 19 May 2014, in view of his lack of answer, the Applicant was reminded to take action as requested, and to submit his completed application by 30 May 2014.

4. By email of 26 May 2014, the Applicant asked, *inter alia*, for his case to be handled confidentially and that an attorney be designated to represent him. By email of 28 May 2014, the UNDT Geneva Registrar referred him to the website of the Office of Staff Legal Assistance. The Applicant’s attention was also drawn to the fact that the Registry was “still waiting for [him] to properly file [his] application as per [the Registry’s] notifications to [him] dated 7 and 19 May 2014”.

5. On 30 May 2014, the Applicant filed a “Motion for extension of time to file an application”, dated 7 May 2014, in which he requested “a Counsel to be appointed for [him]”, and to be granted 90 calendar days of additional time to file his application, because of his “state of health”. As regards the contested decision, he merely wrote, without providing further details, that “[he] contests the absence of a decision and defect of consent”.

6. By Order No. 77 (GVA/2014) of 3 June 2014, the Tribunal rejected the Applicant’s motion for extension of time, finding that the Applicant did not adduce any evidence in support of the reasons for his request. The Tribunal reminded him, however, of the terms of the Geneva Registry’s previous communications, and invited him again to submit his application through the eFiling portal.

7. On 11 June 2014, the Applicant informed the Geneva Registry by email that he “reserve[d] the right to appeal/contest the Order No. 77”.

8. By Order No. 141 (GVA/2014) of 2 September 2014, the Tribunal noted that up to that date, *i.e.* 90 days after the issuance of Order No. 77 (GVA/2014), the Applicant had not made any further filings in his case, and ordered that he file

his application in accordance with the *Guidelines on filing a submission through the eFiling portal*, with all supporting documents, by 16 September 2014. The Tribunal emphasized that failure by the Applicant to comply with its order would result in his case being closed for abandonment of proceedings.

9. On 16 September 2014, the Applicant again filed a “Motion for extension of time to file an application”, in which he asked to be granted 90 additional calendar days to file his completed application, because of his state of health and of the “civil unrest/war”. In support of his request, the Applicant submitted a certificate indicating that he underwent a medical intervention at a clinic in Ukraine on 5 August 2014, as well as a convocation from the army drafted in Ukrainian, which he describes as a “Notice of Military Draft, dated 25 June 2014”.

Consideration

10. Pursuant to art. 2 and 3 of the Dispute Tribunal’s Statute, the Tribunal’s jurisdiction is restricted to applications filed by a staff member or a former staff member of the United Nations “to appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment”. Further, art. 8 (Applications) of the Dispute Tribunal’s Rules of Procedure states the minimum requirements which have to be fulfilled by an application in order for it to be considered by the Tribunal. These are as follows:

1. An application may be submitted on an application form to be prescribed by the Registrar.
2. The application should include the following information:
 - (a) The applicant’s full name, date of birth and nationality;
 - (b) The applicant’s employment status (including United Nations index number and department, office and section) or relationship to the staff member if the applicant is relying on the staff member’s rights;
 - (c) Name of the applicant’s legal representative (with authorization attached);
 - (d) The address to which documents should be sent;
 - (e) When and where the contested decision, if any, was taken (with the contested decision attached);

- (f) Action and remedies sought;
- (g) Any supporting documentation (annexed and numbered, including, if translated, an indication thereof).

11. Finally, para. 6 of the Tribunal's Practice Direction No. 4 on Filing of Applications and Replies, to be found on the Tribunal's website, provides as follows:

6. In addition to information required by art. 8 of the Rules of Procedure of the Tribunal, an application on the merits under art. 2.1 (a) and (b) of the Statute of the Tribunal should include the following information:

- a. A succinct statement of the facts, matters and things relied on to prove the decision did not comply with the terms of appointment or contract of employment;
- b. A copy of the request for management evaluation and the management evaluation decision, if appropriate.

12. The Tribunal notes with regret that in the present case, the Applicant did not comply with these minimum requirements, despite instructions received from the Registry of the Tribunal, as well as from the Tribunal itself. The submission to the Tribunal does not contain any dates for the impugned acts, nor any succinct statement of facts and reasons to contest such acts. Not a single supporting document was attached, such as a request for management evaluation and the response thereto, if any. Similarly, subsequent emails from the Applicant, as well as his two motions for extension of time, did not contain further information as to the contested decisions, so that up to this day, it is still impossible for the Tribunal to comprehend what the case is about, or even to identify the Applicant's concerns or employing entity.

13. Without being provided with substantive information regarding the basic elements of the case, the Tribunal is also not in a position to grant an extension of time to file a complete application. At least, an applicant must reasonably explain what prevents him or her from complying with the indispensable requirements of an application within a well-known time frame. Obviously, it is not enough to present a medical certificate attesting of a one-day stay in a hospital, or an unspecified military conscription, as the Applicant did.

14. Against this background, the Tribunal cannot but close this case for lack of substance and abandonment of proceedings.

15. The Tribunal observes that all the issues discussed above are matters of law, which may be adjudicated even without serving the application to the Respondent for reply and even if they were not raised by the parties. Accordingly, the Tribunal deems it appropriate, at its own initiative and in accordance with art. 9 of its Rules of Procedure, to decide on the present case by way of summary judgment, which has been accepted as an appropriate tool to deal with issues of receivability (see *Chahrour* 2014-UNAT-406, *Gehr* 2013-UNAT-313).

Request for confidentiality

16. The Applicant requested a “full non-disclosure” of his case, which is tantamount to a request for confidentiality, or anonymity of the judgment to be issued as to his name. The Tribunal is not convinced that the Applicant “displays a greater need than any litigant for confidentiality” (*Servas* Order No. 127 (UNAT/2013) and *Servas* 2013-UNAT-349, para. 25). He does not demonstrate that his case is of such a nature as to overcome the guiding principle of transparency in judicial proceedings and public rulings before this Tribunal, which was one of the General Assembly purposes and goals for the internal justice system (see for instance *Pirnea* 2014-UNAT-456, para. 20). The Applicant’s request in this regard should be rejected.

Conclusion

17. In view of the foregoing, the Tribunal DECIDES:

The case is dismissed.

(Signed)

Judge Thomas Laker

Dated this 29th day of September 2014

Entered in the Register on this 29th day of September 2014

(Signed)

René M. Vargas M., Registrar, Geneva