
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/049

Judgment No.: UNDT/2019/093

Date: 24 May 2019

Original: English

Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

MOHAMED

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Nicole Wynn, AAS/ALD/OHR
Nusrat Chagtai, AAS/ALD/OHR

5. In August 2017, the Field Personnel Division/DFS (FPD/DFS) urged all peacekeeping missions via fax to comply with the SPA guidelines and requested missions to submit all pending cases for a one-time exceptional approval. On 28 September 2017, the Applicant sent an email to the Chief Human Resources Officer/ UNAMID (CHRO/UNAMID) requesting to be considered for an SPA for functions performed since 1 July 2013.³

6. On the same date, the CHRO responded to the Applicant informing him

- a. The granting of the SPA that is commensurate with changes in his duties as of 1 July 2013 which is the day his unit became a stand-alone entity.
- b. Significant amount of compensation for the severe moral damages suffered by him because of the deliberate and unnecessary delays made by the administration and MEU in a way that damaged his career advancement and opportunities. Given that the administration has accepted to incur costs to accommodate certain individuals for years on loosely-justified Temporary Job Openings (TJOs), he is entitled to an amount that is at least equivalent to 12 months of net base salary.
- c. Actual accountability measures against the individuals in UNAMID's Human Resources who caused him moral suffering as stated in a fax received from FPD.
- d. The Tribunal should "remind MEU of its role of and responsibility to conduct impartial and objective evaluations of administrative decisions contested by staff members of the UN Secretariat".

Respondent's case

13. Under staff rule 3.10(b), staff members holding a fixed-term or continuing appointment shall be granted SPA in exceptional circumstances where they are called upon to assume the full duties and responsibilities of a post at a clearly recognizable higher level than their own for a temporary period exceeding three months. Section 3 of ST/AI/2003/3 (Special post allowance for field mission staff) sets forth the procedure for temporary assignments to vacant posts within a specific mission.

14. Section 4 of the ST/AI/2003/3 further provides that staff members who have been temporarily assigned to the functions of a higher-level post, in accordance with the procedure set out in section 3, shall be eligible to be considered for SPA when:

They have performed, or are expected to perform for a period exceeding three months, the full functions of a post that (i) has been duly classified pursuant to a job classification notification (for established missions), or has been determined by the Department of Peacekeeping Operations to be at a higher level than their own level o

classified at the P-4 level, and not at the higher P-5 level. Finally, there is no P-5 post within the Conference Management and Translation Unit.

Conclusion

22. The Tribunal finds that the Applicant did not satisfy the criteria for SPA and that the Administration's decision not to pay it was lawful.

23. All claims are dismissed.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 24th day of May 2019

Entered in the Register on this 24th day of May 2019

(Signed)

Eric Muli, Legal Officer, for
Abena Kwakye-Berko, Registrar, Nairobi