
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2021/048
Judgment No.: UNDT/2022/020
Date: 4 March 2022
Original: English

Before: Judge Francesco Buffa

Registry: Nairobi

Registrar: Abena Kwakye Berko

TOSON

v.

SECRETARY GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Yun Hwa Ko, UNFPA

18. On 14 October 2020, the Applicant wrote to the Director, DHR asking to be paid for (i) the ticket from Muscat to Cairo on 8 September 2020 terminal expenses and (ii) DSA for Cairo for the period 10 –16 October 2020.

19. The Applicant travelled to Tunisia on 17 October 2020

20. In March 2021, Applicant was reimbursed for the cost of his ticket from Muscat to Cairo on 8 September 2020 terminal expenses.

21. On 6 April 2021, the Applicant submitted a request for a management evaluation R I W K H 5 H V S R Q G H Q W ¶ V for the period 10 –16 W R Q R W S October 2020.

Considerations

22. The Applicant claims only the DSA for 6 days plus damages for its refusal having had the cost of the ticket reimbursed by the Administration

23. He submits that his travel itinerary was planned and initiated during Oman airports lockdown period that the lockdown was indefinite and there were no direct flights from Muscat to Tunis

pandemic:

48. Initiated travel. In the event that the authorized itinerary must be changed for reasons related to COVID travel restrictions, the following will apply:

a) Departure from official business destination not possible. If during the authorized travel on official business, local authorities or UN guidelines do not allow departure, DSA will remain payable until departure is authorized and up until the first available flight.

26. The Tribunal finds that this claim is not founded. It is worth recalling that on 8 September 2020 he left Muscat to Cairo where he spent 14 days of quarantine and 14 additional days annual leave until 8 October 2020. On 8 October 2020, he booked his travel from Cairo to Tunis for 17 October 2020. He stayed in Cairo for the duration of the intervening period and worked from there.

27. Staff rule 7.10 (a) provides

[A] staff member authorized to travel at United Nations expense shall receive an appropriate daily subsistence allowance in accordance with a schedule of rates established from time to time

28. The United Nations Development Programme (UNDP) policy on Authorizing Official Business Travel (Travel Policy) and the UNDP Policy on DSA (DSA Policy) respectively provide as follows:

Travel Policy

1. All business travel organized and paid by the organization should be approved prior to travel, and before any prepayments can be made (emphasis added).

DSA Policy:

3. DSA shall be paid for periods away from the duty station, during which the traveller is on official travel status. Such periods include authorized rest stopovers and stopovers that are part of the approved official itinerary. . . .

27. If annual leave is taken prior to the start of official travel, DSA is paid effective the day of arrival at the destination for business once annual leave status has ceased.

29. The rules are therefore clear: DSA is provided for official trips only, and these must be formally approved prior to travel.

30. In this case, it results from the records that the Applicant intended to move from Muscat to Tunis for official purposes and that, owing to the COVID-19 emergency situation, the only possible route was through Cairo. The Administration was informed of the difficulties of the official trip and generically allowed it by email; it also reimbursed the flight from Muscat to Cairo.

31. However, the situation then evolved as the staff member remained in Cairo longer, for quarantine, then for leave days, then for teleworking, for a period of almost 40 days in total.

32. Even though the trip started with the features of the official trip, authorized as such by the Respondent, later on it changed its nature, because the Applicant remained in an intermediate situation for a very long period, for personal reasons.

33. The Applicant took annual leave for personal reasons and made plans to fly out of Cairo only on 17 October 2020. His decision to work remotely between the time leave ended and his travel appears to have been of his own doing.

34. The second part of the trip, for the purposes of the Organization, lack of connection with the professional

35. The decision to refuse DSA for the Applicant was in Cairo is therefore lawful, as that part of his presence in Cairo was clearly for personal purposes.

36. Paragraph 48 of the Guidelines cited by the Applicant

(Signed)

Judge Francesco Buffa

Dated this 4th day of March 2022

Entered in the Register on the 4th day of March 2022

(Signed)

Eric Muli, Legal Officer, for

Abena Kwakyeburke, Registrar, Nairobi