
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/004

Judgment No.: UNDT/2023/045

Date: 31 May 2023

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

HEURTEMATTE

v.

8. By Judgment No. UNDT/2022/131 dated 13 December 2022, the Tribunal granted the application on its merits. It further ordered that before determining the issue of remedies, by separate written order, it would instruct the parties to file their final submissions thereon, taking into consideration the findings made in the Judgment UNDT/2022/131.

9. By Order No. 109 (NY/2022), the Tribunal ordered the parties to file their respective final pleadings on remedies, which they did.

Consideration

Applicable law

10. Article 10.5 of its Statute outlines the Tribunal's powers regarding the award of remedies, providing that:

As part of its judgment, the Dispute Tribunal may only order one or both of the following:

(a) Rescission of the contested administrative decision or specific performance, provided that, where the contested administrative decision concerns appointment, promotion or termination, the Dispute Tribunal shall also set an amount of compensation that the concerns appointment, pr

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suffer other health problems including a “psychiatric condition”. He indicates that he was hospitalized in intensive care and isolated from his immediate family.

21. The Tribunal notes that contrary to what the Applicant claims, the evidence shows that most of the health issues that he refers to occurred before the unlawful decision to abolish his post was made which led to his separation from service on 30 September 2021 following the non-renewal of his appointment. The timeline of events shows that the Applicant was notified of the decision to abolish his post on 30 June 2021 whereas the medical condition he describes occurred in June 2020. Consequently, his alleged medical condition predates the unlawful administrative decision and could not have been directly caused by it. Furthermore, the Applicant himself acknowledges that “from being declared a positive patient for COVID-19, [he] began to suffer health breakdowns”.

22. Second, the Applicant claims that his health condition deteriorated as a result of the illegal decision. He refers to a surgery (coronary angioplasty) performed in October 2022, which according to him, was due to his high blood pressure caused by stress and anxiety for not receiving an income since his separation from service. Third, he indicates that he was diagnosed with moderate depression and that he was scheduled to have a second surgery for coronary angioplasty in January 2023.

23. The Tribunal has reviewed the evidence on record and finds that while the Applicant’s coronary artery disease and his moderate depression are well documented by medical reports, there is no evidence that such conditions stem from the unlawful decision.

24. The evidence rather shows that the Applicant’s coronary problems most likely existed prior to 30 June 2021 when he was notified of the unlawful decision to abolish his post. In this regard, the Tribunal notes that a medical certificate dated 22 December 2022 states that the Applicant “has a history of arterial hypertension and coronary artery disease”.

25. Similarly, the medical certificate dated 30 December 2022 from his psychiatrist diagnosed the Applicant with a “moderate depressive episode” but did not provide any further information concerning the circumstances that may have

- c. The aforementioned compensation shall bear interest at the United States of America prime rate with effect from the date this Judgment becomes executable until payment of said compensation. An additional five per cent shall be applied to the United States prime rate 60 days from the date this Judgment becomes executable; and
- d. All other claims are rejected.

(Signed)

Judge Joelle Adda

Dated this 31st day of May 2023

Entered in the Register on this 31st day of May 2023

(Signed)

Isaac Endeley, Registrar, New York