



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2012/068
Judgment No.: UNDT/2014/088
Date: 26 June 2014
Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye Berko

CONLON

v.

SECRETARY GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Katya Melliush, UNON

Introduction

1. The Applicant is a Finance Clerk at the United Nations Environment Programme's (UNEP) Secretariat of the Convention on Biological Diversity (SCBD).
2. In her Application dated 2 November 2012, she is contesting the decision to introduce the Global Classification Standard (GCS) for General Service (GS) positions in Montreal following a renumbering exercise at this duty station. She avers that this resulted in *de facto* demotion by one level of both the job and the personal level of each incumbent and that there was a failure to ensure due process.
3. The Respondent filed a Reply on 8 December 2012 in which it is asserted that the Applicant has misrepresented the facts and that her claims are moot and/or premature, rendering her Application without merit.
4. On 3 June 2014, by Order No. 145 (NBI/2014), the Parties were informed that the Tribunal had decided, in accordance with art. 16.1 of the Tribunal's Rules of Procedure, that an oral hearing was not required in determining this case and that it would rely on the parties' pleadings and written submissions.

Facts

5. The following facts are based on the Parties' written pleadings and submissions.
6. The Applicant joined the SCBD on 23

Resources Office at the International Civil Aviation Organization (ICAO), that ICAO was moving ahead with the implementation of a new seven level GS classification standard and the seven level salary structure on 1 April 2012 and that a renumbering exercise would be conducted to align to the seven level structure. As per the classification guidelines, the Applicant's post would be renumbered from G7 to G6.

9.

The Applicant's case

15. The Applicant made several general submissions regarding the effects of the renumbering exercise. The specific submissions with respect to her own case are summarized below.

16. Due process was denied to the GS staff of the SCBD prior to the application of a new salary scale effective 1 April 2012.

17. The change of the GS salary scale at the Montreal duty station effective 1 April 2012 was the result of the consultative process followed by the lead agency at the Montreal duty station, ICAO.

18. The SCBD and UNON ignored the advance consultative process set out by ICAO yet unilaterally implemented the new salary scale effective 1 April 2012 renumbering all GS staff down one level in both post and personal level.

19. The renumbering exercise resulted in *de facto* re-classification which is supported by the individual Personal Action form she received in May 2012 confirming the lower job grade in breach of ST/AI/1998/9 (System for the classification of posts).

20. The classification exercise is still pending due to delays and significant administrative errors in procedure.

21. In view of the foregoing, the Applicant prays for the following ~~obj~~ ~~re~~ ~~g~~ ~~o~~ ~~u~~ ~~r~~ ~~e~~ ~~s~~ ~~:~~

- a. Reinstatement of her personal grade to G6 step 8 level
- b. Her salary adjustment to reflect the correct remuneration of G6 step 8 for the period 1 April 2012 to date;
- c. Compensation for nonpecuniary damages due to the renumbering exercise and other ongoing unresolved contractual issues; and
- d. Her job title to be returned to that of Finance Assistant.

The Respondent's case

22. The Respondent submitted that until May 2012, the Montreal duty station was known to have a nine-level GS salary scale with posts numbered from GS-1 to GS-9 as was promulgated regularly by the ICSC in the compendium of salary scales for the GS category of staff. In reality, however, SCBD GS staffs were all employed within the GS-2 to GS-8 levels under the nine-level scale.

23. Pursuant to art. 11(a) of its statute, the ICSC establishes and reviews both headquarters methodology and field headquarters methodology for surveys of best prevailing conditions of employment of GS and other related categories.

24. In recent years, the ICSC has promulgated a new seven-level job classification standard for GS and related categories within the United Nations Common System organizations thereby providing for the first time a harmonized approach to job classification for GS jobs globally.

25. In March 2010, ICAO the lem [() -11(g)-1m [((o)-124(a)17(rg)31(c)52(s)5 TJ ET Q q BT /F

29. UNON/HRMS postponed the implementation of the new numbering system until 1 May 2012 to grant some staff extra time to understand the process but as ICAO had otherwise introduced the new scale from 1 April 2012, it was not considered appropriate for the renumbering to be delayed any longer as there was need to have congruency at the duty station, that is, to avoid the United Nations system having different GS scales operational at the same location for a protracted period of time and also due to the fact that the lead of ICAO and the instructions of the ICSC had to be followed.

30.

service of staff in the United Nations common system, while promoting and maintaining high standards in the international civil service.

46. Article 1.1 of the Statute sets out the mandate of the ICSC as follows:

The General Assembly of the United Nations establishes, in accordance with the present statute, an International Civil Service Commission (hereinafter referred to as the Commission) for the regulation and coordination of the conditions of service of the United Nations common system.

47. Pursuant to art. 1(a) of the ICSC Statute, the ICSC shall establish methods by which the principles for determining conditions of service should be applied

48. In resolution 67/241 (Administration of Justice at the United Nations), the General Assembly reaffirmed that “the decisions of the International Civil Service Commission are binding on the Secretariat General and on the Organization”.

49. In *Obino*, UNDT/2013/008 (upheld on appeal), it was held that

Though [the ICSC] may communicate its recommendations on

Tribunal to show that the contested decision was taken