



Case No.: UNDT/NBI/2019/027  
Judgment No.: UNDT/201

resignation from MONUSCO on 26 May 2017 and was separated from service on 6 June 2017.<sup>2</sup>

8. On 1 June 2017, Job Opening (JO) 80008 for the position of Aviation Safety Officer at the P-3 level with MONUSCO, in Goma, was advertised in Inspira. The Applicant applied for JO 80008 on 8 June 2017.

9. On 3 July 2017, the Applicant was informed by a MONUSCO Human Resources Officer that he had been selected for JO 80008.<sup>3</sup> This was followed up by the Onboarding and Separation Service Line at the Regional Service Centre in Entebbe (RSCE) with a Letter of Offer dated 11 July 2017, which the Applicant accepted on 20 July 2017.<sup>4</sup>

10. According to the Applicant, he commenced pre-deployment training at the RSCE on 21 August 2017 but was directed to stop and await further guidance.<sup>5</sup>

11. On 19 October 2017, the Applicant received an interoffice memorandum from the Officer-in-Charge (OiC) of the MONUSCO Human Resources Section (HRS) informing him of the nullification of hiflfl hiflfl of J(O )-70(820(n)19( ))-20(b)19170(hi3(ui)37(s)82( )-1

decision to nullify his offer of appointment for JO 80008. He did not receive a response from the Management Evaluation Unit.

14. On 14 February 2018, he filed an application with the Tribunal to challenge the nullification of his offer of appointment for JO 80008. This was registered as Case No. UNDT/NBI/2018/024. The Applicant withdrew his application on 14 April 2018 following informal settlement with Administration.<sup>7</sup>

15. On 18 August 2018, the Applicant applied for GJO 101990 for the post of P-3 Aviation Safety Officer with MONUSCO in Goma. He was informed on 17 October 2018 by MONUSCO that he had been selected for GJO 101990.<sup>8</sup> On 25 October 2018, the Applicant provided the RSCE with additional information and documentation that had been requested to process his appointment.<sup>9</sup>

16. By email dated 6 December 2018, a Human Resources Officer at the RSCE informed the Applicant that his

receipt of his response on 4 April 2019.<sup>12</sup>

## **SUBMISSIONS**

20. The Respondent submits that the application is moot and should be dismissed because MONUSCO has rescinded the contested decision thus there is no longer a justiciable matter before the Tribunal. The Respondent also submits that the application is not receivable to the extent that the Applicant seeks to re-litigate Case No. UNDT/NBI/2018/024, which was settled informally and the Applicant withdrew his applic

and MONUSCO Human Resources Section on the policies in question.

- d. Compensation in the amount of six months' salary for the mental stress and agony he has suffered because of the unfair treatment meted out to him by the Organization.
- e. That the Tribunal issue "broader instructions to management so that such uncalled-for harassment does not go unrecognized".

## CONSIDERATIONS

22. The Respondent is seeking the dismissal of the current application on the basis that the decision to discontinue the Applicant's onboarding with MONUSCO for GJO 101990 was rescinded on 29 March 2019 and thus, the application is moot. The Applicant contends that his application remains live until the RSCE clarifies the basis for the impugned decision. Is the Respondent's assertion of mootness correct?

23. In *Kallon* 2017-UNAT-742, the United Nations Appeals Tribunal (the Appeals Tribunal) made the following observations on the mootness doctrine:

44. A judicial decision will be moot if any remedy issued would have no concrete effect because it would be purely academic or events subsequent to joining issue have deprived the proposed resolution of the dispute of practical significance; thus placing the matter beyond the law, there no longer being an actual controversy between the parties or the possibility of any ruling having an actual, real effect. The mootness doctrine is a logical corollary to the court's refusal to entertain suits for advisory or speculative opinions. Just as a person may not bring a case about an already resolved controversy (*res judicata*) so too he should not be able to continue a case when the controversy is resolved during its pendency. The doctrine accordingly recognizes that when a matter is resolved before judgment, judicial economy dictates that the courts abjure decision.

45. Since a finding of mootness results in the drastic action of dismissal of the case, the doctrine should be applied with caution. The defendant or respondent may seek to "moot out" a case against him, as in this case,







*(Signed)*

Judge Agnieszka Klonowiecka-Milart