



M.N.
v.
Chairperson of the African Union Commission

FOR APPLICANT : *Pro se*

FOR RESPONDENT: Office of the Legal Counsel, African Union Commission

ORDER

Procedural and Factual History

1. On 13 December 2014, the Applicant filed an application contesting the decision to terminate his contract on account of abolition of post. He also challenged non-payment of acting allowance as Deputy Chief Executive Officer ad interim (DCEO a.i.) of the African Peer Review Mechanism.
2. In our judgment of 15 September 2017, we concluded that the Applicant's appointment was terminated following the abolition of his post. Consequently, we ordered that the Applicant be paid severance pay at the rate of one month gross salary for every twelve months of his acting appointment in the post of DCEO a.i. We also awarded the Applicant USD 1,000.00 in cost.¹
3. In his application of 24 November 2017, the Applicant alleges that the Respondent has failed to execute our judgment. The Applicant contends that the Respondent's conduct amounts to contempt and seeks orders from the Tribunal requiring the Respondent to pay the judgment awards with a 20% interest added as of 16 October 2017 until full satisfaction. He also asks the Tribunal to issue any other orders it deems fit under its inherent powers.
4. On 12 December 2017, the Tribunal transmitted the application to the Respondent requiring a response within ten days. The Respondent did not file a response. In the absence any filing from the Respondent countering the Applicant's factual representations, the Tribunal deems the Applicant's request unopposed and will adjudicate it as such.

Legal Standards

5. Judgments are final when delivered and the Respondent bears the obligation to fully execute them within thirty days of notification.²

¹ *M.N. v. Chairperson*, AUAT/2017/003.

² Administrative Tribunal Statute Arts. 9 and 17(v).

6. Failure to execute a judgment within the prescribed time period or to provide an explanation when called upon by the Tribunal amounts to contempt.³ The Tribunal will sanction a party for contempt when its judgments are disobeyed or its notices disregarded.⁴
7. The Tribunal may impose punitive damages where it finds a party's contemptuous conduct egregious. The Tribunal may also award compensation for damages resulting from non-performance of an obligation.⁵ A claim for damages will generally succeed if supported by sufficient evidence of monetary loss and/or moral injury.

Discussion

8. This is the third application this year where the Tribunal is ruling on a contemptuous conduct arising from the Respondent's failure to execute a judgment. We have not received any information from the Respondent as to why this pattern of affront keeps recurring even after we required the Respondent's legal representatives to provide an explanation. We expect all litigants, including those appearing for the Respondent, to not engage in conduct that is prejudicial to the ends of justice. In this case, the Respondent's legal representatives failed far short of meeting these professional expectations. This pattern of cavalier behaviour is very troublesome for us.
9. Having found the Respondent contemptuous twice recently, we do not want to tarry much on this issue. We reiterate our holding in *T.T.* and *A.L.* that the Respondent is bound by the actions or inactions of his legal representatives.⁶ We accordingly find the Respondent in contempt of the Tribunal, and direct the Secretary to file a copy of this order with the Respondent for the purposes of communicating our grave concerns about non-execution of our judgment and the conduct of his legal representatives.
10. Given the excessive delay in payment of the award, we find that the Applicant is entitled to interest. Since the Respondent failed to pay the sum awarded to the Applicant within thirty days following notification of the judgment, interest shall accrue as of the day following the expiry of that period *i.e.* 16 October 2017.
11. Having found the Respondent's conduct contumacious, the Tribunal awards the Applicant the sum of USD 7,500.00 in punitive damages.
12. As the application succeeds, the Applicant is entitled to costs, which the Tribunal sets at USD 500.00.

Orders

13. For the above reasons, the Tribunal:

- a. FINDS the Respondent in contempt of the Tribunal's orders;

³ *T.T. v. Chairperson*, Order No. 2018/001, para.4.

⁴ *Id.*

⁵ Administrative Tribunal Statute Art. 17(iv).

⁶ *T.T. v. Chairperson*, Order No. 2018/001, para.13; *A.L. v. Chairperson*, Order No. 2018/002 para.10.

- b. REAFFIRMS Judgment No. AUAT/2017/003 and directs the Respondent to comply with the judgment in full within 15 days;
- c. ORDERS the payment to the Applicant of USD 7,500.00 in punitive damages;
- d. ORDERS the payment to the Applicant of USD 500.00 in costs;
- e. ORDERS the Respondent to submit to the Tribunal proof of execution of this order within 15 days of execution of judgment; and
- f. DIRECTS the Secretary to serve this order on the Chairperson of the African Union Commission.

14. The above sums are to be paid within 15 calendar days from the date this order is issued. A 15 % interest rate shall accrue on the judgment amount as of 16 October 2017 until full satisfaction.

DATE: 7 June 2018

/s/

HONORABLE JUSTICE ANDREW K. C. NYIRENDA SC, PRESIDENT

/s/

HONORABLE JUSTICE SHAHEDA PEEROO

/s/

HONORABLE JUSTICE ALIOU BA

Secretary : Paula Velazquez