



Before: Judge Goolam Meeran

Registry: New York

Registrar: Hafida Lahiouel

TERRAGNOLO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for Applicant:
Self-represented

Introduction

7. On the same day, the Applicant received an automated response informing him that the recipient of his email was out of the office until 17 March 2014. The notification indicated that urgent matters may be referred to two other individuals. The Applicant re-submitted his request of 14 March to one of these individuals. He received another automated response notifying him that this recipient was also out of office, until 24 March 2014.

8. On 28 March 2014, prior to receiving a response from OHRM, the Applicant requested management evaluation of OHRM's failure to give him a decision. On 10 April 2014, the Management Evaluation Unit dismissed the Applicant's request.

9. On 25 April 2014, Ms. Catherine Pollard, the Assistant Secretary-General ("ASG"), OHRM, notified the Applicant that the decision relating to his request that an exception be made to allow him to apply for posts more than one grade above his own did not appear to be tainted by any extraneous considerations. Accordingly, she did not consider that an investigation into this matter was warranted.

Consideration

10. Pursuant to art. 2(1)(a) of the Dispute Tribunal's Statute, the Tribunal is competent to hear and pass judgment on an application contesting an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment of a staff member.

11. The jurisprudence of the United Nations Appeals Tribunal ("UNAT") makes it clear that the absence of a response on the part of the Administration to a staff

date of the decision when faced with the silence of the Administration (Rosana2012-UNAT-273).

12. The question to be considered by the Tribunal is whether the delay of ten working days on the part of OHRM in communicating a decision to the Applicant could reasonably and sensibly be construed as an implied decision on the part of the Administration to deny the Applicant's request. The Tribunal notes that in *Tabari*, two months had elapsed before it was considered that the silence of the administration constituted an implied refusal.

13. Section 5.14 of ST/SGB/2008/5 (Prohibition of discrimination, harassment, including sexual harassment, and abuse of authority) states that “[u]pon receipt of a

27. The Applicant has filed a huge volume of documents in support of a claim that is frivolous. The Tribunal finds that the manner in which the Applicant has conducted these proceedings amounts to an abuse of process for which an order of costs under art. 10.6 of the Statute is appropriate.

Conclusion

28. The application is rejected;

29. The Applicant is ordered to pay costs in the sum of USD 1,500 for abuse of process.

(Signed

Judge Goolam Meeran

Dated this 25th day of July 2014

Entered in the Register on this 25th day of July 2014

(Signed

Hafida Lahiouel, Registrar, New York