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## **Introduction**

1. On 17 August 2015, the Applicant, a Senior Administrative Associate at the GS-

10. At paragraph 1 of his closing submissions, the Respondent informed the Tribunal that:

Following the oral hearing, a review of the feasibility of redeployment of the Applicant was undertaken. This review has resulted in a decision by the Respondent to lift the administrative leave of the Applicant as of Monday 24 August 2015. The Applicant will be redeployed to administrative functions in the Office of the Director, Middle East and North Africa Bureau, Amman, Jordan and will be notified in writing tomorrow, Friday 21 August 2015.

11. The Respondent further submitted that in view of his latest decision to lift the Administrative leave complained of, this Application is therefore moot.

12. In response to the Respondent's latest decision and submissions, the Applicant made the following submissions:

- a. In accordance with ST/AI/371 (Revised disciplinary measures), suspension may be contemplated if the conduct in question might pose a danger to other staff members or to the Organization, or if there is a risk of evidence being destroyed or concealed and if redeployment is not feasible.
- b. The process spelt out in ST/AI/371 is clear; ordinarily the subject of an investigation is expected to continue performing their functions as normal. If the circumstances justifying placement on administrative leave exist (risk of destruction or concealment of evidence) then consideration must be given to whether or not it is feasible to place the staff member on administrative leave. Only when it is considered that redeployment is not feasible will administrative leave then be applied.
- c. This means that redeployment can only be considered when the conditions justifying administrative leave exist.
- d. If the Tribunal finds that the circumstances justifying administrative leave did not exist then it follows that redeployment should never have been considered.
- e. By proposing to redeploy the Applicant, the Respondent is effective

leave were lawfully present and therefore will redeploy. This is shifting position in an attempt to avoid the jurisdiction of the Tribunal.

- f. The Respondent's proposal means that the unlawful nature of the decision challenged remains uncured. This means the application is not moot. The Respondent's last minute change of position risks creating a situation where further applications on the same facts and evidence are required to address the illegality of a redeployment decision based on a finding that the circumstances for administrative leave existed.
- g. The issue as to whether those conditions existed is still a live issue properly before the Tribunal. These last minute maneuvers have not rendered that Application moot and should not be allowed to thwart the jurisdiction of this Tribunal.
- h. The Applicant's

14. Counsel for the Respondent in closing submissions has given an undertaking that the Respondent will lift the Administrative Leave of the Applicant as of Monday, 24 August 2015. The Applicant will be redeployed to administrative functions in the Office

Entered in the Register on this 24<sup>th</sup> day of August 2015

(Signed)

Legal Officer, for,  
Abena Kwakye-Berko, Registrar, Nairobi