



## **Introduction**

1. On 23 December 2016, the Applicant, a Technical Advisor at the P-5 step 12 level with  
filed an application for suspension of action, pending completion of management evaluation,  
31 December 2016. She submits, *inter alia* one year before retirement of a long-standing staff member with exceptional performance record and expertise relevant to [the]
2. On the same date, the Registry transmitted the application for suspension of action to the Respondent, requesting him to file a response by 28 December 2016.
3. In his response, duly filed on 28 December 2016, the Respondent requests the Tribunal to reject the application on the grounds that it does not satisfy any of the three basic cumulative conditions for suspending the impugned decision during management evaluation, notably: *prima facie* unlawfulness, urgency, and irreparable harm.

## **Background**

4. The following factual background is based on submissions and the documentation that they have filed. The Tribunal observes that the Respondent did not contest any of the material facts presented by the Applicant, which have been reflected in the outline below, but rather provided supplementary and additional information.
5. The Applicant entered the United Nations system in 1978 and has 21 years of pensionable UN employment.
6. On 6 January 2006, the fixed-term appointment was transferred from the United Nations Development Programme to UNFPA.

7. The Applicant currently holds a fixed-term appointment and encumbers the post of Technical Adviser at the P-5 level in the Technical Division of HIV/AIDS Branch in UNFPA in New York. This encumbers

analysis of the implications in terms of resource distribution across business units and subsequently implications for human resources. As a result two scenarios ( A and B ) were analyzed and proposed to the attention of the UNFPA Executive Director via multiple documentations during the months of September and October 2016 [reference to annexes omitted]. Scenario A was finally selected as the appropriate way forward as it would have provided more funding for programme activities. Therefore, changes to the structure of posts and functions in affected Units and reallocation of funds (both at Headquarters and in the field) were therefore implemented according to the selected scenario [reference to annex omitted].

12. On 29 November 2016 the Applicant states that she spoke with the Director, Division of Human Resources ( HR ) at his request, and was given three options to consider: to continue in her current capacity, take a package or take another position. This has not been disputed by the Respondent.

13. On 30 November 2016, the Applicant informed the DHR Director orally that she expected and preferred to continue in her current capacity until her contract was completed upon her date of retirement on 31 December 2017. This has not been



**Respondent's submissions**

17.

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19.

The Dispute Tribunal shall order a suspension of action on an application filed by an individual requesting the Dispute Tribunal to





Protections in cases of abolition of post or reduction of staff:

7.2.6 Staff Rules 13.1 and 9.6(e) state the protections certain classes of staff members must be afforded in the event of abolition of their posts or reduction of staff. Staff Rule 13.1(d) provides:

ties of service require abolition of a post or reduction of the staff and subject to the availability of suitable posts for which their services can be effectively utilized, staff members with permanent appointments shall be retained in preference to those on all other types of appointments, provided that due regard shall be given in all cases to relative competence,

taking into account relative competence, integrity and length of service.



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Since the Applicant in any event would have to separate from UNFPA by the end of 2017 as her mandatory retirement date is 31 December 2017, it is not clear how much, if at all, UNFPA would appear to save, if anything at all, compared to the cost of her salary as a P-5 level staff member. The Tribunal notes that the termination indemnity in itself, the Applicant being a staff member with more than 15 years in service, under Annex III to the Staff

Rather than a justification for cost saving, as argued by the Respondent, abolishing the [redacted] and terminating her appointment would appear to result in a greater expense for UNFPA, for which funding appears instantly available. C

record and her perceived key role and competency [redacted] G agenda in her 2015 performance appraisal, the decision raises serious doubts regarding its rationale.

c. Justification: As justification [redacted] in a table dated 23 December 2016, the DHR Director states that this was, [redacted] g tasks into new structure. Role to be redistributed for effective [redacted]. In the same table the justification for all other posts to be abolished is either, Need to focus on fast-track countries and [redacted], or, funds for keeping the posi [redacted]. The DHR Director justification for [redacted] is not in line with any of the other reasons provided for its abolition, and rather seems to provide an explanation on how



decided that her post was no longer necessary if not needed, then why were her role and tasks to be merged and redistributed

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34. Considering the above, the Tribunal therefore finds that the impugned terminate her appointment are *prima facie* unlawful.

*Urgency*

35. art. 13 of its Rules

