
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/081
Order No.: 143 (NY/2019)
Date: 17 October 2019
Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

DELSOL

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER ON SUSPENSION OF ACTION

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Katrina Waiters, UNFPA

Introduction

1. On 11 October 2019, the Applicant, a Public Information Media Specialist at the P-4 level, step 15, filed an application for suspension of action pending management evaluation under art. 2.2 of the Dispute Tribunal's Statute and art. 13 of its Rules of Procedure, seeking to suspend: (a) the decision to retain the overall ratings for core and functional competencies at "Developing Proficiency" in his performance appraisal for 2018; and (b) the d

suspend any contested administrative decision if all three requirements have been met.

Receivability of the claim against the non-renewal decision and scope of the present case

5. For the Tribunal to suspend an administrative decision pending the management evaluation process, the applicant must first have requested such management evaluation under staff rule 11.2 because, otherwise, no management evaluation would be ongoing.

6. Attached to the Applicant's application for suspension of action, he appends his request for management evaluation of 9 October 2019 in which, under the heading, "Administrative Decision to be Evaluated", is stated: "Reclusion of the Decision to retain the Overall Rating for Competencies at 'Developing Proficiency' and Reclusion of the Decision to retain the Overall Rating for Functional Competencies at 'Developing Proficiency'". The Applicant makes no mention of the non-renewal decision and, as submitted by the Respondent, this decision is not being reviewed as part of the pending management evaluation process.

7. Accordingly, the Applicant's claim regarding the non-renewal of his fixed-term appointment is not receivable because no management evaluation process is pending concerning this decision.

Particular urgency

8. The Dispute Tribunal has consistently held that urgency is relative and that each case regarding suspension of action will turn on its own facts, given the exceptional and extraordinary nature of such relief (see, for instance, *Farhadi* Order No. 131 (GVA/2017) and *Montecillo* Order No. 54 (NY/2019)). If an applicant seeks the Tribunal's assistance on an urgent basis, she or he must come to the Tribunal at the first available opportunity, taking the particular circumstances of her or his case into account (see, for instance, *Evangelista* UNDT/2011/212, *Farhadi* Order No. 131

(GVA/2017), *Montecillo* Order No. 54 (NY/2019) and *Nsubuga* Order No. 85 (NBI/2019). The onus is on the applicant to demonstrate the particular urgency of the case and the timeliness of her or his actions. The requirement of particular urgency will not be satisfied if the urgency was created or caused by the applicant (see, for instance, *Villamorán* UNDT/2011/126, *Dougherty* UNDT/2011/133, *Jitsamruay* UNDT/2011/206, *Farhadi* Order No. 131 (GVA/2017), *Montecillo* Order No. 54 (NY/2019) and *Nsubuga* Order No. 085 (NBI/2019))

