
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019/082
Order No.: 146 (NY/2019)
Date: 22 October 2019
Original: English

Before:

Introduction

1. On 16 October 2019, the Applicant, a staff member at the P-5 level for the application for suspension of action pending management evaluation Statute and art. 13 of its Rules of Procedure, seeking to suspend the posting of the Job Opening for the position of Representative of the New York Liaison Office at the D-1 level.
2. On 21 October 2019, the Respondent filed a reply contending that the application is not receivable because the Applicant fails to identify a contestable administrative decision that affects the terms of her employment.

Consideration

Receivability of the application for suspension of action

3. Under art. 2.2 of the Dispute Tribunal Statute and art. 13.1 of the Rules of Procedure, the Tribunal may suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage. The Dispute Tribunal can suspend the contested decision only if all three requirements have been met.
4. In the present case, the Applicant is seeking suspension of the selection process for the D-

Applicant states the contested decision will result in her being removed from the position she is currently encumbering.

5. The Tribunal finds that the present application is not receivable as the contested decision to post the above-mentioned Job Opening is not an administrative decision subject to judicial review. As held by the Appeals Tribunal in *Lee* 2014-UNAT-481, the key characteristic of an administrative decision subject to judicial review is that the decision must produce direct legal consequences affecting a staff member's terms and conditions of appointment.

6. In the circumstances and on the papers before it, the Tribunal is unable to conclude that the contested decision will impact the Applicant's terms of employment. The Tribunal notes that the Applicant currently serves on a continuing appointment, which expires on 30 September 2032. Although the Applicant states that following the posting of the Job Opening, she will be removed without further instruction, she provides no evidence to support any such impact on her employment status. Since the application is not receivable, the Tribunal does not have the jurisdiction to review the elements of *prima facie* unlawfulness, urgency and irreparable harm.

7. The Applicant has made a request for anonymity in regard to the present proceedings. As this order does not pertain to the merits of this case or disclose any potentially sensitive background information, there are no grounds to justify the

Conclusi

rights to contest any future administrative decisions which directly impact her terms of employment.

(Signed)