



UNITED NATIONS APPEALS TRIBUNAL TRIBUNAL D'APPEL DES NATIONS UNIES

Case No. 2018-1186

Elzarov

(Applicant)

v.

Secretary-General of the United Nations

(Respondent)

Order No. 327 (2018)

1. On 12 June 2018, the United Nations Dispute Tribunal (UNDT or Dispute Tribunal) in Nairobi issued Judgment No. UNDT/2018/065 (Judgment) in the case of *Elzarov v. Secretary-General of the United Nations*. In that Judgment, the Dispute Tribunal dismissed Mr. Zurab Elzarov's application contesting the decision not to select him for the position of D-1 Chief of Service, Humanitarian Affairs, African Union/United Nations Hybrid Operations in Darfur (UNAMID), holding that the "[Secretary-General] [had] made more than a minimal showing that the decision was not tainted by improper considerations and the burden having shifted to [Mr. Elzarov] he [had] failed to show that he was denied a fair chance of promotion".
2. On 2 July 2018, Mr. Elzarov filed a "Motion for Interim Measures", with relation to the Judgment, to the United Nations Appeals Tribunal (Appeals Tribunal), and the Secretary-General filed his response to the motion on 19 July 2018.
3. In his motion, Mr. Elzarov contends that "the UNDT has failed to exercise jurisdiction vested in it; committed an error of procedure, such as to affect the decision of the case; and erred on questions of fact and law, resulting in a manifestly unreasonable decision". Mr. Elzarov states that "the candidate unlawfully selected for the position [of D-1 Chief of Service] was issued visa and tickets to join UNAMID" and requests the Appeals Tribunal to "suspend the implementation of the judgment and the contested administrative decision in order to prevent irreparable harm".

4. In his response to the motion, the Secretary-General argues that Mr. Elzarov's motion has not met the requirements for an order for temporary relief under Article 9(4) of the Appeals Tribunal Statute (Statute), in that the Dispute Tribunal dismissed Mr. Elzarov's application in its entirety.

5. The Secretary-General notes that the Appeals Tribunal has been clear that, "[w]hile the Appeals Tribunal has independent jurisdiction to order temporary relief, even if not ordered by the Dispute Tribunal, it may only do so when such an order is consistent with the judgment of the Dispute Tribunal".

6. The Secretary-General contends that suspending the implementation of the contested decision would be inconsistent with the Judgment and requests that the Appeals Tribunal dismiss the motion in its entirety.

7. Article 9(4) of the Statute provides that "[a]t any time during the proceedings, the Appeals Tribunal may order an interim measure to provide temporary relief to either party to prevent irreparable harm and to maintain consistency with the judgement of the Dispute Tribunal".

8. Moreover, this Tribunal has held that an interim measure of relief is subject to very strict requirements; such relief is available to protect a litigant from the likelihood of irreparable harm, who the Dispute Tribunal believes is likely to succeed at trial or the Appeals Tribunal believes is likely to succeed on appeal.¹

9. In the instant case, Mr. Elzarov's motion fails to meet the second condition of Article 9(4) of the Statute, in that the UNDT dismissed his application in its entirety, and, as a result, granting his motion would not be consistent with the impugned judgment of the UNDT.

¹ UNAT Order No. 3 (2010) (*Koumoin*), para. 10.

In the premises, **IT IS HEREBY ORDERED** that Mr. Elzarov’s “Motion for Interim Measures” pending proceedings is **DENIED**.

Original and Authoritative Version: English

Dated this 23th day of July 2018
in Port of Spain, Trinidad and Tobago

(Signed)
Judge Deborah Thomas-Felix
Duty Judge

Entered in the Register on this 24th day of
July 2018 in New York, United States.

(Signed)
Weicheng Lin, Registrar