



Before: Judge Rowan Downing

Registry: Geneva

Registrar: René M. Vargas M.

NIELSEN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

N/A

Introduction

1. On 17 December 2016, the Applicant filed an “application on extension [of] deadline in UN [Joint Staff] Pension Fund [“UNJSPF”] for [her] pension contribution”, by which she asked the Tribunal to request the UNJSPF “to extend the deadline for [her] pension contributions for another [three] years or for amount of time the [Tribunal] will find it necessary.

2. In her above-mentioned latest application, the Applicant also referred to a similar request made in one of her pending applications, namely the one registered under Case No. UNDT/GVA/2014/028.

Consideration

3. Before the Dispute Tribunal can fully consider any matter it must establish that it has jurisdiction to do so. The jurisdiction of the Dispute Tribunal is very limited. Pursuant to art. 2(a) of its Statute, the Dispute Tribunal is competent to hear and pass judgement on an application filed by an individual “[t]o appeal an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment”.

4. Pursuant to the well-established jurisprudence of the Appeals Tribunal, an administrative decision “is a unilateral decision taken by the Administration in a precise individual case (individual administrative act) which produces direct legal consequences to the legal order” (see e.g. *Al Surkhi et al.* 2013-UNAT-304).

5. The Appeals Tribunal further ruled in *Massabni* 2012-UNAT-238 that:

2. The duties of a Judge prior to taking a decision include the adequate interpretation and comprehension of the applications submitted by the parties, whatever their names, words, structure or content they assign to them, as the judgment must necessarily refer to the scope of the parties’ contentions. Otherwise, the decision-maker would not be able to follow the correct process to accomplish his or her task, making up his or her mind and elaborating on a judgment motivated in reasons of fact and law related to the parties’ submissions.

3. Thus, the authority to render a judgment gives the Judge an inherent power to individualize and define the administrative decision impugned by a party and identify what is in fact being contested and so, subject to judicial review which could lead to grant or not to grant the requested judgment.

6. Pursuant to Staff Rule 11.2 and art. 8.1(ii)(c) of the Tribunal's Statute, for an application to be receivable, the applicant must first submit a request for management evaluation within the applicable time limit, which is "60 calendar days from the date on which the staff member received notification of the administrative decision to be contested". The Appeals Tribunal has ruled that an application is not receivable *ratione materiae*, if the Applicant failed to file a (timely) management evaluation (*Eggesfield* 2014-UNAT-402).

7. The Tribunal notes that in the case at hand, the Applicant failed to identify the administrative decision she is contesting and that, from its examination of the documents received, it is not possible to clearly define the administrative decision that she wishes to contest. Furthermore, the Applicant did not request management evaluation of an administrative decision, if any. It follows that the present application is not receivable, *ratione materiae*, and the Tribunal is not competent to adjudicate the matter.

8. The above is a matter of law, which may be adjudicated even without serving the application to the Respondent for reply, and even if it was not raised by the parties (see *Gehr* 2013-UNAT-313, *Christensen* 2013-UNAT-335). Indeed, the Appeals Tribunal has confirmed in *Kazazi* 2015-UNAT-557 that in addressing issues of receivability, it is appropriate for the Dispute Tribunal to proceed by way of summary judgment under art. 9 of its Rules of Procedure.

9. The foregoing is without prejudice to the Tribunal's dealing with matters raised by the Applicant in Case No. UNDT/GVA/2014/028.

Conclusion

10. In view of the foregoing, the Tribunal DECIDES:

The application is rejected.

(Signed)

Judge Rowan Downing

Dated this 20th day of December 2016

Entered in the Register on this 20th day of December 2016

(Signed)

René M. Vargas M., Registrar, Geneva