



Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

MONTICELLI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
ALS/OHRM

The Application

1. The Applicant is a former Regional Administrative Officer and Area Security Coordinator with the United Nations Operations in Burundi (ONUB).
2. This application, for the payment of entitlements, was filed on 14 June 2017.

Procedural History

3. On 27 June 2017, the Tribunal issued Order No. 117 (NBI/2017) directing the Applicant to provide the Tribunal with a copy of his request for management evaluation. The Applicant was asked to comply with that directive by 4 July 2017.
4. Recognising that the Applicant is self-represented, the Tribunal also advised that he seek legal representation. To this end, the Tribunal directed service of the Order on the Office of Staff Legal Assistance (OSLA) and set a deadline of 18 July 2017 for any submissions that OSLA may have wished to file on behalf of the Applicant.
5. Neither the Applicant nor OSLA have responded to the Tribunal's Order.

Deliberations and Orders:

6. The Statute of the United Nations Dispute Tribunal provides in art. 8:
 1. An application shall be receivable if:
[...]
(c) An applicant has previously submitted the contested administrative decision for management evaluation, where required;
7. It is settled law that the filing of a request for management evaluation is a mandatory first step in the process leading to a judicial determination on the merits. In *Pirnea* 2013-UNAT-311, and several other rulings, the United Nations Appeals Tribunal (the Appeals Tribunal) clearly pronounced on the policy underpinning the requirement of requests for management evaluation: it affords

the Administration the opportunity to correct any errors in an administrative decision to obviate the need for judicial review before the Tribunal.¹

8. In *Nagayoshi*, the Appeals Tribunal stated as follows:

This Tribunal has held that the purpose of management evaluation is to afford the Administration the opportunity to correct any errors in an administrative decision so that judicial review of the administrative decision is not necessary and that for this goal to be met it is essential to clearly identify the administrative decision the staff member disputes.²

9. In seeking review of the impugned decision by the Management Evaluation Unit (MEU), a staff member is required to clearly identify the administrative decision he or she is seeking to challenge. In the event of litigation before the Dispute Tribunal, an applicant must demonstrate that the decision being challenged is pending review before the MEU or has previously been the subject of a request for management evaluation and that both the request and the claim to the Tribunal complied with the required deadlines and time limits.³

10. In *Darwish* 2013-UNAT-368, the Appeals Tribunal specifically held that: “the Dispute Tribunal does not have jurisdiction to consider applications that were not subject to administrative review where such review is a mandatory requirement under the Staff Rules.”

11. The Tribunal is required to factually find that the decision that is impugned before it is in the process of being administratively reviewed. A preliminary finding to this effect is a prerequisite for litigation before this Tribunal.

12. The record before the Tribunal does not show that a request for management evaluation has been filed by the Applicant. The Applicant was given the opportunity to address this situation and correct it, but did not.

¹ See *Manly-Spain* UNDT/2016/205; *Luvai* 2014-UNAT-417; *Darwish v Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East* 2013-UNAT-369.

² *Nagayoshi v Registrar of the International Tribunal for the Law of the Sea* 2015-UNAT-498; 2013-UNAT-381, citing *Pirnea* 2013-UNAT-311.

³ *Manly-Spain* UNDT/2016/205.

13. This Application therefore is incompetent and the only option open to the Tribunal is to summarily dismiss it for want of management evaluation.

14. The Application is **DISMISSED**.

(Signed)

Judge Nkemdilim Izuako

Dated this 21st of July 2017

Entered in the Register on this 21st of July 2017

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi