



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

ACHAKZAI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

SUMMARY JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

UNHCR

Introduction

1. By email of 21 August 2017 to the Geneva Registry of the Tribunal, the Applicant, a staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”) in Pakistan, submitted an incomplete application contesting a decision of 18 April 2017 to impose on him the disciplinary measure of a loss of five steps in grade and deferment of eligibility for consideration for promotion for a period of three years.
2. By email of 22 August 2017, the Geneva Registry asked the Applicant to submit his application through the Tribunal’s e-filing portal and informed him that this would not affect the date of the filing of his application, which would remain the date at which the Registry had received his above-mentioned message.
3. By email of 25 August 2017, the Applicant answered that it would act accordingly.
4. The Applicant submitted a complete application through the Tribunal’s e-filing portal only on 30 January 2019.

Consideration

5. The issue of the application’s receivability is a matter of law that may be assessed even if not raised by the parties and even without serving the application to the Respondent for reply (see *Gehr* 2013-UNAT-313, *Christensen* 2013-UNAT-335). Bearing this in mind, and in light of the circumstances of the case, the Tribunal deems appropriate to rule on the application by summary judgment, in accordance with art. 9 of its Rules of Procedure, without serving the application to the Respondent.
6. Pursuant to art. 8.1(ii) of the Tribunal’s Statute, for an application to be receivable, it must be filed within the applicable deadlines, which, in cases such as the present one where a management evaluation of the contested decision is not required (see staff rule 11.4), is “90 calendar days [as] of the applicant’s receipt of the administrative decision”.

7. According to his submission, the Applicant was notified of the contested decision on 19 May 2017. Therefore, the 90-day time limit to institute proceedings before the Tribunal expired on 17 August 2017. It follows that when the Applicant submitted his incomplete application by email on 21 August 2017, the statutory time limit had already elapsed.

8. The Tribunal is bound to follow the constant and unambiguous case law of the Appeals Tribunal that time limits for formal contestation are to be strictly enforced (*Mezoui* 2010-UNAT-043, *Al-Mulla* 2013-UNAT-394, *Samuel-Thambiah* 2013-UNAT-385, *Romman* 2013-UNAT-308, *Kissila* 2014-UNAT-470, *Kazazi* 2015-UNAT-557).

9. In view of the foregoing, the Tribunal finds that the application is irreceivable *ratione temporis*.

Conclusion

10. In view of the foregoing, the Tribunal REJECTS the application as not receivable.

(Signed)

Judge Teresa Bravo

Dated this 21st day of March 2019

Entered in the Register on this 21st day of March 2019

(Signed)

René M. Vargas M., Registrar, Geneva