



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

HOSSAIN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Omar Yousef Shehabi, OSLA

Counsel for Respondent:

Federica Midiri, UNDP

Introduction

1. The Applicant contests the non-renewal of his appointment beyond its expiration date of 31 December 2020.

Facts and procedural history

2. By letter dated 28 November 2020, the Resident Representative, United Nations Development Programme (“UNDP”) Bangladesh, informed the Applicant of the non-renewal of his fixed-term appointment expiring on 31 December 2020.

3. On 30 December 2020, the Applicant requested management evaluation of the above-mentioned non-renewal decision.

4. By letter dated 11 February 2021, the Assistant Secretary-General/Assistant Administrator and Director, Bureau for Management Services, UNDP, responded to the Applicant’s request for management evaluation advising him that the contested decision had been set aside.

5. On 12 May 2021, the Applicant filed the application referred to in para. 1 above, which was registered under Case No. UNDT/GVA/2021/025.

6. On 28 June 2021, the Respondent filed his reply confirming that the non-renewal decision had been rescinded and, consequently, disputing that the contested decision could be a matter for adjudication.

7. On 7 July 2021, the Applicant filed a motion for production of evidence. The Respondent submitted a response to the motion on 9 July 2021.

8. On 13 July 2021, the case was assigned to the undersigned Judge.

Consideration

9. The Applicant contests the decision not to renew his fixed-term appointment beyond 31 December 2020 for unsatisfactory performance and claims he was never afforded a fair opportunity to address those allegations.

10. According to art. 2.1a) of its Statute, the Tribunal is competent to hear and pass judgment on an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment of an applicant. The terms “contract” and “terms of appointment” include all pertinent regulations and rules and all relevant administrative issuances in force at the time of alleged non-compliance.

11. The record shows that, as a result of the Applicant’s request for management evaluation, the contested decision was rescinded, and his fixed-term appointment extended for an initial three-month period based on previous extensions. It follows that the decision that the Applicant challenged no longer produces legal effects and, consequently, the Tribunal finds that the application is moot.

12. In light of the above finding, the Tribunal does not need to address the Applicant’s motion for production of evidence.

Conclusion

13. In view of the foregoing, the Tribunal DECIDES to reject the application in its entirety.

Judge Teresa Bravo

(Signed)

Dated this 12th day of August 2021

Entered in the Register on this 12th day of August 2021

(Signed)

René M. Vargas M., Registrar, Geneva