



Before: Francesco Buffa
Registry: Nairobi
Registrar: Abena Kwakye Berko

SONGWA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for Applicant:
James Okao, Okao & Company Advocates

Counsel for Respondent:
Rebecca Britness, UNHCR

Introduction

1. At the time of the application, the Applicant served on an indefinite appointment at the P-5 level with the United Nations High Commissioner for Refugees (“UNHCR”) office in Bunj/Maban, South Sudan, where he was head of the sub-office.
2. By a decision dated 21 November 2019, served to the Applicant on 22 November 2019, the Applicant was dismissed from service for misconduct.
3. On 24 February 2020, the Applicant filed an application with this Tribunal to challenge the disciplinary measure imposed on him; that application, incomplete, was completed – following instructions by the Registry of Nairobi - on 26 February 2021.
4. On 1 April 2021, the Respondent filed his reply, objecting that the application was time-barred and submitting that there was clear and convincing evidence that the Applicant engaged in the prohibited conduct which he was charged with, and that the disciplinary measure was lawful.

Consideration

5. The Tribunal has considered the substance of the parties’ submissions and determined that, in the circumstances, it must first consider whether this application is receivable pursuant to the statutory provisions governing the Tribunal’s jurisdiction.
6. Article 8.1(d)(ii) of the Dispute Tribunal’s Statute stipulates that in cases where a request for management evaluation (“RME”) of a contested decision is not required, the application must be made within 90 calendar days of the applicant’s receipt of the administrative decision.
7. Having received the impugned decision on 22 November 2019, the Applicant had until 20 February 2020 to file his application.

8. The record is clear that the Applicant first came to the Tribunal on 24 February 2020, therefore after 90 days from the date he was notified of the contested decision.

9. Time limits for formal contestations are to be strictly enforced, a day late is by no means *de minimis*.¹ The UNDT has no discretion to waive the applicable deadlines.²

10. The application is therefore not receivable *ratione temporis* as time-barred.

Conclusion

11. This application must therefore be dismissed as not receivable *ratione temporis*.

(Signed)

Francesco Buffa

Dated this 28th day of January 2022

Entered in the Register on this 28th day of January 2022

(Signed)

Eric Muli, Legal Officer, for

Abena Kwakye-Berko, Registrar, Nairobi

¹*Ruger* 2016-UNAT-693.

²*Kissila* 2014-UNAT-470, *Babiker* 2016-UNAT-672, *Roig* 2014-UNAT-491.