



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2022/040
Judgment No.: UNDT/2022/078
Date: 7 September 2022
Original: English

Before: Judge Joelle Adda
Registry: New York
Registrar: Morten Albert Michelsen, Officer-in-Charge

YODJEU NTEMDE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

ON RECEIVABILITY

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Yehuda Goor, UN Secretariat, ALS/OHR

Introduction

1. On 15 July 2022, the Applicant filed the application.
2. Subsequent to the Registry instructing the Applicant to provide certain information but not receiving a response, on 8 August 2022, the Tribunal issued Order No. 074 (NY/2022). By this Order, the Tribunal provided the Applicant with the following directions:
 - a. What is the exact, specific and identifiable administrative decision that he is challenging? The Applicant is to provide a short and concise description of the relevant decision, and if he knows it, further state the date of the decision and the decision maker. If possible, the Applicant should also provide documentation thereon;
 - b. What is the Applicant's current employment status with United Nations and what was it at the time of the impugned decision. If employed, the Applicant is to indicate his position, department, duty station and index number?
3. By **10:00 a.m. on Tuesday, 6 September 2022**, the Applicant is to file the following information:
 - a. What is the exact, specific and identifiable administrative decision that he is challenging? The Applicant is to provide a short and concise description of the relevant decision, and if he knows it, further state the date of the decision and the decision maker. If possible, the Applicant should also provide documentation thereon;
 - b. What is the Applicant's current employment status with United Nations and what was it at the time of the impugned decision. If employed, the Applicant is to indicate his position, department, duty station and index number?
4. In the failure of providing relevant information, the Tribunal will dismiss the application for lack of prosecution.
5. On 10 August 2022, the Applicant filed a response to Order No. 074 (NY/2022) together with three motions for interim measures as well as a motion for intervention.
6. On 12, 15, 16, 18, 22 and 23 August and 1, 2, 6 and 7 September 2022, the Applicant filed some additional submissions. The Tribunal finds that none of these additional submissions are of any relevance to the present case and none responded to the questions asked in the Order.

Consideration

7. It is trite law that the Tribunal may examine its own jurisdiction on its own initiative (see, for instance, the Appeals Tribunal in *O'Neill* 2011-UNAT-182 and *Barud* 2020-UNAT-998).

Receivability *ratione personae*

8. The Tribunal notes that pursuant to art. 3.1 of the Dispute Tribunal's Statute, access to the Tribunal is limited to staff members and, under certain conditions, former staff members and persons making claims in the name of an incapacitated or deceased staff member.

9. Staff regulation 4.1 provides that a person only becomes a United Nations staff member after they are issued a letter of appointment. However, it is jurisprudentially established that, under certain circumstances, a person who has not yet been issued a letter of appointment is entitled to seek recourse within the internal justice system, provided that he/she satisfied all the conditions of an offer of appointment (*Gabaldon* 2011-UNAT-120).

10. Applying the above to the instant case, the Tribunal finds that the Applicant does not meet the criteria which would entitle him to seek recourse within the internal justice system.

11. From the documents before the Tribunal follows that the Applicant is not a United Nations staff member. The Applicant's submissions do not establish that an offer of employment had been issued and the Applicant does not provide any evidence that he is entitled to contract-based rights with a view to employment as a staff member within the Organization. The Administration did not undertake to conclude a contract for the recruitment of the Applicant as a staff member and can therefore not be regarded as having extended to him the protection of its administration of justice system.

12. Accordingly, the Tribunal finds the Applicant has no legal standing before the Tribunal, and the application is therefore not receivable *ratione personae*.

Receivability ratione materiae

13. Furthermore, the Tribunal finds that the Applicant has failed to state what administrative decision(s) he wishes to contest in accordance with art. 2.1(a) of the Dispute Tribunal's Statute.

14. As the Tribunal stated in Order No. 074 (NY/2022), under the consistent jurisprudence of the Appeals Tribunal, an applicant to identify the impugned administrative decision with sufficient precision to enable the Dispute Tribunal to review it (see, for instance, *Planas* 2010-UNAT-049 and *Haydar* 2018-UNAT-821). The Appeals Tribunal, however, has held that with self-represented applicants, it will "take a generous approach and examine those allegations, which can be interpreted as falling into the scope of Article 2(1) of the Appeals Tribunal Statute".

15. When closely perusing the application and the Applicant's 10 August 2022 submission in response to Order No. 074 (NY/2022), the Tribunal is unable to identify what decision the Applicant wishes to challenge. In the 10 August 2022 submission, the Applicant plainly inserts two screenshots from Inspira (the online United Nations jobsite) that shows that while the Applicant was selected and had confirmed his interest in a post as Administrative Assistant at the G-5 level with "Job ID" 161206, he had not completed a range of other "pre-recruitment formalities". This, at minimum, included "Medical Clearance", "Reference Checks", "Visa" and "Offer Confirmation" as none of the relevant boxes were checked off in the right column of the first screenshot. Based thereon and without any further explanations, which the Tribunal has already sought in Order No. 074 (NY/2022), it not possible to identify what the impugned decision is.

16. Consequently, in the lack of the Applicant indicating the contested administrative decision, the application is not receivable *ratione materiae*.

Conclusion

17. The application is rejected as not receivable.

18. In result, no need exists for the Tribunal to seek the Respondent's reply or address any of the Applicant's motions stated in his 10 August 2022 submission.

(Signed)

Judge Joelle Adda

Dated this 7th day of September 2022

Entered in the Register on this 7th day of September 2022

(Signed)

Morten Michelsen, Officer-in-Charge, New York