



Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

HANDY

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Nicole Wynn, AS/ALD/OHR, UN Secretariat

Fatuma Mninde-Silungwe, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a former Special Assistant, Political Affairs (P-4) with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (“MINUSCA”).
2. On 12 April 2022, he filed an application to contest the Secretary-General’s decision to withhold his final pay and pension entitlement since 2 November 2021.
3. On 16 May 2022, the Respondent filed his reply contesting the receivability of the application.

Facts

4. The Applicant was separated from MINUSCA on 2 November 2021, following implementation of a disciplinary measure of separation from service.¹
5. The Regional Service Centre Entebbe (“RSCE”) raised a separation personnel action form effective from 2 November 2021.²
6. On 8 November 2021, the MINUSCA Human Resources Section (“HRS”) sent the Applicant a check out notification outlining the administrative arrangements on separation from MINUSCA.³
7. By email dated 24 February and 22 March 2022, the RSCE informed the Applicant that his case was undergoing United Nations Headquarters (“UNHQ”) Payroll audit with an estimated processing time of eight weeks.⁴
8. On 25 March 2022, the Applicant complained to the Secretary-General and wrote to the United Nations Joint Staff Pension Fund.⁵ He never requested management

¹ Reply, annex R1.

² *Ibid.*, annex R2.

³ *Ibid.*, annex R3.

⁴ *Ibid.*, annex R6.

⁵ Application, part V, Details of contested decision, page 3; annex entitled “Emails to UNSG – UNJPSF 25 March 2022”

evaluation.

9. On 20 April 2022, the RSCE released the Applicant's final pay without the repatriation grant which was being processed when he filed this application.⁶

Considerations

10. The Tribunal finds that this application is not receivable for want of a management evaluation request. The Applicant indicated that he did not submit a management evaluation request because he is a former staff member.⁷

11. Under staff rule 11.2, a staff member, prior to filing of an application before the UNDT, "shall, as a first step, submit to the Secretary-General in writing a request for a management evaluation of the administrative decision". Moreover, art. 8.1(c) of the Dispute Tribunal's Statute provides that an application is receivable if the contested administrative decision has previously been submitted for management evaluation.

12. A former staff member contesting a decision stemming from his elapsed appointment or contract is, for the purpose of staff rule 11.2, considered a "staff member". As a former staff member, the Applicant is not exempt from submitting a request for management evaluation⁸. Therefore, notwithstanding the dubious indication of the date of the contested decision, the Tribunal is not competent to entertain this application.

Conclusion

13. The application is rejected as irreceivable.

⁶ *Ibid.*, annex R 8.

⁷ Application, section VI, para. 1.

⁸ *Gehr*, 2013-UNAT-293, para. 30.

(Signed)

Judge Agnieszka Klonowiecka-Milart

Dated this 30th day of September 2022

Entered in the Register on this 30th day of September 2022

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi