



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2024/031
Judgement No.: UNDT/2024/033
Date: 27 May 2024
Original: English

Before: Judge Solomon Areda Waktolla

Registry: Nairobi

Registrar: René M. Vargas M., Officer-in-Charge

NEGASA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for Applicant:

Self-represented

Counsel for Respondent:

AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a Security Officer at the United Nations Mission in South Sudan. He holds a continuing appointment at the FS-5 level and is based in Juba.

Procedural History

2. On 6 May 2024, he filed an application with the United Nations Dispute Tribunal (“UNDT”) sitting in Nairobi to challenge the Respondent’s managerial decision to issue him with a written caution.

3. On 7 May 2024, the Registry of the UNDT wrote to the Applicant to inform him that his application, as filed, was incomplete. Specifically, the Applicant was directed to complete his application with copies of his request for management evaluation and the response he received from the Management Advice and Evaluation Section dated 19 February and 11 March 2024 respectively.

4. The Applicant was directed to provide the Court with these documents by 10 May 2024.

5. As at the date of this Judgment, he has not.

Consideration

6. Having reviewed the application, the Tribunal considers that the primary issue to be determined is its receivability. The issue of receivability is one which in appropriate cases, such as this one, the Tribunal may determine on a priority basis with or without the Respondent’s reply.¹

7. In this case, the Applicant was given the opportunity to complete his application with the mandatory prerequisite for the filing of an application before the UNDT. He did not.

8. Staff rules 11.2(a) provide that:

¹ *Morales* UNDT/2019/158, *Cherneva* UNDT/2021/101.

(a) Staff members wishing to formally contest an administrative decision alleging non-compliance with their contract of employment or terms of appointment, including all pertinent regulations and rules pursuant to staff regulation 11.1 (a), shall, as a first step, submit to the Secretary-General in writing a request for a management evaluation of the administrative decision.

9. Article 8(1)(c) of the Statute of the United Nations Dispute Tribunal provides that an application (before the Dispute Tribunal) shall be receivable if an Applicant has previously submitted the contested administrative decision for management evaluation, where required.

10. In accordance with staff rules 11.2(a) and (c) and art.8(1)(c) of the Statute it was, therefore, incumbent on the Applicant to seek review of the decision he wishes to impugn by the Management Advice and Evaluation Section.

11. In *Gehr* 2013-UNAT-293, the Appeals Tribunal held:

The overarching intention of Article 8(1)(c) is that management evaluation is a mandatory first step, prior to invoking the jurisdiction of the Dispute Tribunal to receive an application under its competency.

12. In the circumstances before me, the Tribunal must assume from the Applicant's silence that he has not requested a review of the impugned decision by management evaluation, thus depriving the Tribunal of the jurisdiction to consider this matter any further.

Conclusion

13. In view of the foregoing, the Tribunal:

- a. Dismisses the application; and
- b. Orders that the matter of *Negasa v Secretary-General of the United Nations*, registered under Case No. UNDT/NBI/2024/031, be struck off the Tribunal's docket.

(Signed)

Judge Solomon Areda Waktolla (Duty Judge)

Dated this 27th day of May 2024

Entered in the Register on this 27th day of May 2024

(Signed)

Eric Muli, Legal Officer, for René M. Vargas M., Officer-in-Charge, Nairobi