



Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: Liliana López Bello

DALAL

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Camila Nkwenti, HRLU, UNOG

Introduction

1. On 2 July 2024, the Applicant filed an application contesting his non-selection for the position of Human Rights Officer at the Business and Human Rights Unit of the Office of the High Commissioner for Human Rights (“OHCHR”) at the P-3 level, advertised through Job Opening No. 222469.
2. On 9 August 2024, the Respondent filed his reply arguing that the application is not receivable *ratione personae* as the Applicant lacks the *locus standi* to file an application before this Tribunal.
3. By Order No. 125 (GVA/2024) of 1 October 2024, the Tribunal, *inter alia*, encouraged the parties to explore amicable settlement of the matter and revert to the Tribunal in this respect by 22 October 2024.
4. On 10 October 2024, the Respondent informed the Tribunal that an amicable settlement in the present case was not possible.
5. On 13 October 2024, the Applicant filed a rejoinder.
6. On 16 January 2025, the present case was assigned to the undersigned Judge.
7. By Order No. 1 (GVA/2025) of 16 January 2025, the Tribunal, *inter alia*, instructed the parties to file closing submissions, which they did on 24 January 2025.

Consideration

Receivability

8. In *Christensen* 2013-UNAT-335, paras. 20-21, the United Nations Appeals Tribunal (“the Appeals Tribunal”, or UNAT) held that “the UNDT (“United Nations Dispute Tribunal”) is competent to review its own competence or jurisdiction in accordance with Article 2(6) of its Statute” when determining the receivability of an application. The Appeals Tribunal further stated, “this competence can be exercised even if the parties or the administrative authorities do

not raise the issue, because it constitutes a matter of law and the Statute prevents the UNDT from receiving a case which is actually non-receivable”.

9. Articles 2.1(a) and 3.1 of the UNDT Statute provide:

Article 2

1. The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual, as provided for in article 3, paragraph 1, of the present statute, against the Secretary-General as the Chief Administrative Officer of the United Nations:

(a) To appeal an administrative decision that is alleged to be in noncompliance with the terms of appointment of the contract of employment. The terms “contract” and “terms of appointment” include all pertinent regulations and rules and all relevant administrative issuances in force at the time of the alleged noncompliance[.]

...

Article 3

1. An application under article 2, paragraph 1, of the present Statute may be filed by:

(a) Any staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

(b) Any former staff member of the United Nations including the United Nations Secretariat or separately administered United Nations funds and programmes;

(c) Any person making claims in the name of an incapacitated or deceased staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes.

10. Pursuant to these provisions, the jurisdiction of the UNDT is expressly limited to individuals who are either current or former staff members of the United Nations. Consequently, the UNDT lacks jurisdiction to consider applications from non-staff members (*Yodjeu Ntemde* UNDT-2023-073, para. 6).

11. In this case, the evidence on record unequivocally establishes that the Applicant was not a staff member of the United Nations at the time of submitting his application for the position of Human Rights Officer advertised under Job Opening No. 222469. He was indeed an external candidate by the time of his application on 17 December 2023. Accordingly, the Applicant lacks *locus standi* before this Tribunal, and the present application is therefore not receivable.

12. With respect to the fact that the Applicant is a former staff member of the United Nations, the evidence on record shows that the Applicant worked as an Appeals Prosecutor at the United Nations Criminal Tribunal for the former Yugoslavia from 2007 to 2010, and as Head of the Legal Unit of the Office of the United Nations High Commissioner for Refugees (“UNHCR”) in Israel from 2021 to March 2023.

13. As consistently decided by the Appeals Tribunal, “before a person may be regarded as a former staff member in terms of article 3, there must be a sufficient nexus between the former employment and the contested decision. A sufficient nexus exists when the challenged decision has bearing on an applicant’s former status as a staff member, specifically when it affects his or her prior contractual rights” (*Hasan* 2022-UNAT-1287 para. 40).

14. However, none of the Applicant’s previous positions with the United Nations are related or connected in any way with the contested decision.

15. Therefore, the Tribunal finds that the application is not receivable *ratione personae* because at the date of the filing of the present application, the Applicant was not a staff member and the contested decision has no bearing on the Applicant’s status as a former staff member or otherwise breached the terms of his former appointment or contract of employment.

16. Under the circumstances and considering that the application is not receivable, there is no need for the Tribunal to examine the merits of the contested decision.

Conclusion

17. In view of the foregoing, the Tribunal DECIDES to dismiss the application.

(Signed)

Judge Sun Xiangzhuang

Dated this 30th day of January 2025

Entered in the Register on this 30th day of January 2025

(Signed)

Liliana López Bello, Registrar, Geneva