



Before: Judge Goolam Meeran

Registry: Geneva

Registrar: René M. Vargas M.

BLEIER

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for Applicant:

Self-represented

Counsel for Respondent:

UNICEF

Introduction

1. By an incomplete filing made on 1 October 2018, completed by email on 5 October 2018, the Applicant, a former staff member of the United Nations Children’s Fund (“UNICEF”), submitted an application for suspension of action pending management evaluation.

Consideration

2. Article 2.2 of the Tribunal’s Statute provides that it shall be competent to suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage.

Contested administrative decision(s)

3. In the narrative of his application, through which the Applicant seeks to demonstrate that he has been discriminated against due to his age when applying for different UNICEF positions, the Applicant does not clearly identify the administrative decision(s) he wishes to contest. Nevertheless, in response to questions in the application form about the date on which the contested decision was made and the date on which he was notified, he stated “September 4th, 2018”.

4. One of the annexes to the application is an email, dated 4 September 2018, from the “UNICEF HR Team” to the Applicant informing him of his non-selection for the post of Child Protection Specialist (Emergencies), P-3, in Cox’s Bazaar, Bangladesh. The Tribunal finds that the Applicant is seeking to suspend this decision.

Request for management evaluation

5. Staff rule 11.2, insofar as it is relevant, provides as follows (emphasis added):

(a) A staff member wishing to formally contest an administrative decision alleging non-compliance with his or her 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.**

...

(c) A request for a management evaluation shall not be receivable by the Secretary-General unless it is **sent within 60 calendar days from the date on which the staff member received notification of the administrative decision to be contested.**

6. In the case of UNICEF staff members, requests for management evaluation must be addressed to the Executive Director, UNICEF. Failure to do so, or doing it in an untimely manner, results in the rejection of applications as being not receivable, *ratione materiae*. Furthermore, the interim relief sought through applications for suspension of action can only be granted while management evaluation is pending.

7. The Applicant asserts that he requested management evaluation on 14 September 2018. He annexed to his application an email of that date addressed to the Director, Human Resources (“HR”), UNICEF, where he sets forth his claim that he was discriminated against when applying for positions in UNICEF. The Director, HR, UNICEF, replied to the Applicant by email of 4 October 2018, addressing the Applicant’s non-selection for the above-mentioned position as well as his allegation of discrimination.

8. The Tribunal notes that the communication relied upon by the Applicant as constituting his request for management evaluation was not addressed to the official having delegated authority. Accordingly, it would appear that he has not properly requested management evaluation of the contested decision. In the circumstances, his application for suspension of action pending management evaluation must fail. The Tribunal further observes that with respect to the Applicant's non-selection decision, the mandatory 60-day deadline to request management evaluation, set forth in staff rule 11.2(c) quoted above, will expire on 3 November 2018.

9. Even if the Tribunal were to proceed on the basis that the Applicant's email dated 14 September 2018 was a request for management evaluation, the email of 4 October 2018 from the Director, HR, UNICEF, would constitute a reply to it. Therefore, there would not be a request for management evaluation that is pending. It would follow that, the application for suspension of action based on the Applicant's email of 14 September 2018 would also fail since there is no request for management evaluation that is pending.

ORDER

10. The application for suspension of action is refused.

(Signed)

Judge Goolam Meeran

Dated this 11th day of October 2018

Entered in the Register on this 11th day of October 2018

(Signed)

René M. Vargas M., Registrar, Geneva