



Before: Judge Teresa Bravo

Registry: Geneva

Registrar: René M. Vargas M.

LAKHAL

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:

Nicole Wynn, AAS/ALD/ OHR

Fatuma Mninde-Silungwe, AAS/ALD/OHR

Introduction

1. By an incomplete application filed on 24 February 2022, completed on 25 February 2022, the Applicant, a staff member of the United Nations Logistics Base (“UNLB”), requests suspension of action, pending management evaluation, of the decision not to appoint him to the position of P-4 UN Police Reform Adviser, advertised through Job Opening No. 19-ROL-UNLB-126604-R-BRINDISI (M) (“the Position”).
2. As part of his application, the Applicant also requested the Tribunal to order the suspension of the contested decision pending the suspension of action proceedings.
3. On 25 February 2022, the application for suspension of action was served on the Respondent. At the same time, the Tribunal granted the Applicant’s request by instructing the Respondent to refrain, as of the notice and for as long as the suspension of action proceeding is before the Tribunal, from taking any further decision or action relating to the recruitment process in the Position.
4. On 1 March 2022, the Respondent filed his reply.

Facts

5. In March 2018, the Applicant joined the UN Standing Police Capacity (“UNSPC”) as a Public Order Advisor at the P-4 level. Prior to that, he worked as UN Police Strategic Planner at UN Headquarters from February 2015 to November 2017, and as Individual Police Officer with the United Nations Support Mission in Libya from August 2013 until January 2015.
6. On 10 December 2019, the Applicant applied for the Position.
7. On 29 February 2020, the Applicant completed a written test.
8. On 23 February 2021, six candidates including the Applicant and Mr. Z. E., were invited for an interview.

9. By email dated 14 January 2022, the Chief of Selection and Recruitment Section (“SRS”), the United Nations Police (“UNPOL”), informed the Applicant that:

In reference to your application for the above-mentioned job opening, we are pleased to inform you that you are being placed on a roster of pre-approved candidates for potential consideration for future United Nations Secretariat job openings with similar functions at the same level.

10. The email did not mention that someone else had been appointed to the advertised position, but the Applicant came to know that Mr. Z. E. was appointed to the Position.

11. Some days later, the Applicant was provided with the Interview Worksheets, the Evaluation Reports, and an unsigned Evaluation Summary, showing that the Applicant was graded “outstanding” and thus was recommended for the Position whereas Mr. Z. E. was rated “fully competent” and thus was “recommended for a possible roster”.

12. In addition to being recommended for the Position by the Interview Panel, the Applicant asserts that he was more suitable for the Position on the grounds that:

- a. He is the most deployed officer in UNSPC;
- b. He has occupied leadership positions such as Acting Deputy Police Commissioner for the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, and Acting Police Commissioner at the United Nations Integrated Office in Haiti;
- c. He speaks English, Arabic and French which is a desirable competence whereas Mr. Z. E. only speaks English; and
- d. He has more experience with the UN than Mr. Z. E. and has many letters of recommendation from different missions showing his satisfactory performance.

13. According to the Applicant, the decision to recommend him for the Position was changed after consultation between the Chief, SRS, UNPOL, and the Chief of UNSPC. He suspected improper interference, an abuse of authority, discrimination, and favouritism for Mr. Z. E., who allegedly is a friend of the Chief of SRS, UNPOL, and comes from the same country.

14. On 23 February 2022, the Applicant requested management evaluation of the contested decision mentioned in para. 1 above.

Consideration

15. Art. 2.2 of the Tribunal's Statute provides in its relevant part that:

The Dispute Tribunal shall be competent to hear and pass judgement on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage.

16. In his reply, the Respondent informs the Tribunal that, on 1 March 2022, the Administration suspended the on-boarding of the selected candidate pending the outcome of the Applicant's request for management evaluation.

17. Since the recruitment process for the Position has already been suspended by the Administration, the Tribunal can only conclude that the contested decision, i.e., the decision not to appoint the Applicant to the Position has also been suspended. Accordingly, the Applicant's request for suspension of the implementation of the contested administrative decision has become moot.

18. It follows that it is not necessary for the Tribunal to examine if the three statutory requirements specified in art. 2.2 of its Statute, namely *prima facie* unlawfulness, urgency and irreparable damage are met in the case at hand.

Conclusion

19. In view of the foregoing, the present application for suspension of action is moot and there is no need to further decide on the Applicant's request.

(Signed)

Judge Teresa Bravo

Dated this 2nd day of March 2022

Entered in the Register on this 2nd day of March 2022

(Signed)

René M. Vargas M., Registrar, Geneva