



**Before:** Judge Sun Xiangzhuang

**Registry:** Geneva

**Registrar:** René M. Vargas M.

PHOGAT

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for Applicant:**

Shubha Suresh Naik, OSLA

**Counsel for Respondent:**

Jan Schrankel, UNHCR

Louis-Philippe Lapicerella, UNHCR

### **Introduction**

1. By application filed on 26 June 2024, the Applicant, a staff member of the Office of the United Nations High Commissioner for Refugees (“UNHCR”), requests suspension of action, pending management evaluation, of the decision not to renew his temporary appointment beyond 30 June 2024.

2. For the reasons stated below, the Tribunal finds that the present application is moot and decides to dismiss it.

### **Facts**

3. The Applicant joined UNHCR on 31 July 2023 on a temporary appointment as Senior Resettlement Assistant at the G-5 level in New Delhi. His temporary appointment expires on 30 June 2024.

4. On 6 May 2024, the Applicant was informed orally that his contract would not be renewed at the end of June 2024 due to budgetary constraints. On 8 May 2024, he received written confirmation of this decision.

5. On 16 June 2024, the Applicant requested management evaluation of the decision not to renew his temporary appointment beyond 30 June 2024.

6. On 26 June 2024, the Applicant filed the present application for suspension of action.

7. On 27 June 2024, the Deputy High Commissioner replied to the Applicant’s request for management evaluation. The contested decision was upheld.

8. On the same day, the application for suspension of action was served on the Respondent, who filed his reply on 28 June 2024.

### **Consideration**

9. Article 2.2 of the Tribunal's Statute provides that the Tribunal 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. These three requirements are cumulative. In other words, they must all be met in order for a suspension of action to be granted. Furthermore, the burden of proof rests on the Applicant.

10. It follows that an application for suspension of action can only be entertained under the jurisdiction of the Dispute Tribunal when the challenged contested decision is the subject of an ongoing management evaluation (see *Onana* 2010-UNAT-008, para. 19; *Igbinedion* 2011-UNAT-159, para. 20).

11. In the present case, the Applicant's management evaluation request is no longer pending. The evidence shows that the Deputy High Commissioner completed the management evaluation on 27 June 2024, and that the Applicant received the outcome of his management evaluation request the same day.

12. Consequently, as the management evaluation in this case has been completed, the present application has become moot, and the Tribunal does not need to examine whether the three statutory requirements specified in art. 2.2 of the Tribunal's Statute are met.

13. Accordingly, the Tribunal finds that it no longer has jurisdiction to rule on the present application for suspension of action.

### **Conclusion**

14. In view of the foregoing, the application for suspension of action pending management evaluation is dismissed.

*(Signed)*

Judge Sun Xiangzhuang

Dated this 28<sup>th</sup> day of June 2024

Case No. UNDT/GVA/2024/024

Order No. 77 (GVA/2024)

Entered in the Register on this 28<sup>th</sup> day of June 2024

*(Signed)*

René M. Vargas M., Registrar, Geneva