



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2014/101  
Order No.: 256 (NBI/2014)  
Date: 19 November 2014  
Original: English

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**Before:** Judge Vinod Boolell  
**Registry:** Nairobi  
**Registrar:** Abena Kwakye-Berko

DALGAMOUNI

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**DECISION ON THE APPLICANT'S  
APPLICATION FOR AN ORDER OF  
EXECUTION OF ORDER NO. 224  
(NBI/2014)**

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**Counsel for the Applicant:**  
Alexandre Tavadian, OSLA

**Counsel for the Respondent:**  
Steven Dietrich, ALS/OHRM  
Alister Cumming, ALS/OHRM

## **The Application and Procedural History**

1. The Applicant is a Budget Officer at the Regional Service Centre in Entebbe, Uganda (RSCE). She serves at the P4 level on a fixed-term appointment.
2. On 7 November 2014, the Applicant filed the subject Motion of this Decision for execution of Order No. 224 (NBI/2014) pursuant to arts. 32.2 and 36 of the Rules of Procedure of the United Nations Dispute Tribunal (UNDT).
3. For purposes of clarity, what follows is a brief procedural history of this case leading up to the issuance of Order No. 224 (NBI/2014).
4. On 16 May 2014, the Applicant filed an application for suspension of action challenging the decision not to extend her fixed-term appointment. The Tribunal issued Order No. 137 (NBI/2014) on 23 May 2014, granting the application. As part of Order No. 137, the Tribunal recognised the hostile work environment in which the Parties found themselves and urged them to “engage in meaningful consultations towards having this matter resolved.”
5. On 23 September 2014, the Applicant filed her second application for suspension of action. The Applicant complained that she had been subjected to “a series of actions which cumulatively amount to a decision to constructively dismiss her by depriving her of her functions”; the “most recent decision” being a decision made on 19 September 2014.
6. The Respondent argued that the Applicant’s second application for suspension of action was not receivable as a matter of substance; that it did not meet the statutory timelines; and that it had, in any event, been implemented.
7. On 24 September 2014, the Tribunal issued Order No. 214 (NBI/2014) setting the matter down for hearing.

8. The Tribunal heard the Parties on 25 September 2014. The Applicant and one other witness testified. The Tribunal admitted the written statement of one further witness for the Applicant, without objection from the Respondent. For his part, the Respondent called one witness. Closing submissions were filed by both Parties on 26 September 2014.

9. On 30 September 2014, the Tribunal issued Order No. 218 (NBI/2014) in which it found the second application receivable and granted the stay that the Applicant sought, pending management evaluation.

10. On 10 October 2014, the Tribunal issued Order No. 224 (NBI/2014) which fully set out its position in respect of the receivability and merits of the second application.

11. On 7 November 2014, the Applicant moved for execution of Order No.224 (NBI/2014) pursuant to arts. 32.2 and 36 of the Rules of Procedure.

12. Also, on 7 November 2014, the Applicant received the outcome of her second request for management evaluation.

13. The Respondent replied to the motion for execution on 12 November 2014. In response to the motion for execution, the Respondent took the position that the Tribunal does not have the jurisdiction to decide on the motion for execution as Order No. 224 (NBI/2014), which was issued pending management evaluation, was no longer in force.

14. Also on 12 November 2014, the Applicant filed an application on the merits and with it the present Application for *interim* relief pursuant to art. 14 of the Rules of Procedure.

15. On 19 November 2014, the Tribunal issued Order No. 255 (NBI/2014) granting the applicant's motion for *interim* measures.

## **DELIBERATIONS**

16. An order for suspension of action which is issued pursuant to art. 13 of the Rules of Procedure is only valid for as long as it takes the Management Evaluation Unit to decide on a staff member's request for review.

17. The injunction lapses as soon as a management evaluation decision is issued. On the facts of the present case, Order No. 224 (NBI/2014) lapsed on 7 November 2014.

18. The Tribunal has no jurisdiction to adjudicate on the execution of an order which is no longer valid.

19. The Application is dismissed.

*(signed)*

Judge Vinod Boolell

Dated this 19<sup>th</sup> day of November 2014

Entered in the Register on this 19<sup>th</sup> day of November 2014

*(signed)*

Abena Kwakye-Berko, Registrar, Nairobi