



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2019/088
Order No.: 082 (NBI/2019)
Date: 27 June 2019
Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

LUC-ALBERT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for the Applicant:
Shubha Naik, OSLA

Counsel for the Respondent:
Christine Graham, AAS/ALD/OHR
Nusrat Chagtai, AAS/ALD/OHR

Introduction

1. The Applicant filed the current application on 25 June 2016 seeking suspension of the decision by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) not to extend his fixed-term appointment (FTA) beyond 30 June 2019.

2. The Respondent filed a reply on 26 June 2019 by which he submits that the application is moot because the Secretary-General has suspended the implementation of the contested decision pending management evaluation.

Facts

3. The Applicant is serving on an FTA with MONUSCO as a Generator Mechanic at the FS-4 level.

4. On 2 April 2019, the Chief Human Resources Officer (CHRO) informed the Applicant of the proposed abolition of 764 posts and the initiating of a Comparative Review Process (CRP). He was directed to submit his latest PHP and last two e-Pases.

5. On 23 April 2019, the Applicant was informed that his position had been reclassified to FS-4 effective 1 January 2019. The re-classified post was offered to him.

6. On 29 May 2019, the CHRO informed the Applicant that his post had been identified for retrenchment and thus, his FTA, which was expiring on 30 June 2019, would not be renewed.

7. The Applicant requested management evaluation of the non-renewal decision on 21 June 2019.

8. The Applicant was informed by the CHRO on 26 June 2019 that the contested decision had been suspended pending management evaluation.

Considerations

9. In *Kallon* 2017-UNAT-742, the United Nations Appeals Tribunal (the Appeals Tribunal) stated inter alia that

44. [...] Just as a person may not bring a case about an already resolved controversy (*res judicata*) so too he should not be able to continue a case when the controversy is resolved during its pendency. The doctrine accordingly recognizes that when a matter is resolved before judgment, judicial economy dictates that the courts abjure decision.

10. The Tribunal has before it emails from the CHRO and the Applicant, which were filed by the Respondent. The CHRO's email, dated 26 June 2019, alerts the Applicant to the suspension of his check-out process pending management evaluation. She further informed him that "We will revert in the coming days regarding your extension of appointment with MONUSCO once the budget for the financial period from 1 July 2019 to 30 June 2020 has been approved."

11. The second email, also dated 26 June 2019, is from the Applicant and it states simply "Many thanks."

12. The Tribunal is satisfied by the Respondent's submission that the Applicant has received the remedy he was seeking i.e. suspension of the non-renewal decision during the pendency of his management evaluation request. Since the contested decision has been suspended, the Tribunal considers that there is no live issue for its determination.

ORDER

13. This application for suspension of action is dismissed.

(Signed)

Judge Nkemdilim Izuako

Dated this 27th day of June 2019

Entered in the Register on this 27th day of June 2019

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi