



Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

MATOBO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER GIVING AN OPPORTUNITY
TO THE APPLICANT TO RESPOND
TO THE RESPONDENT'S REPLY**

Counsel for the Applicant:

Jean-Paul Atiamutu Malomalo

Counsel for the Respondent:

Nicole Wynn, AAS/ALD/OHR

Maureen Munyolo, AAS/ALD/OHR

Introduction

1. On 6 October 2020, the Applicant, a former Vehicle Technician, working with the United Nations Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”), filed an application before the Dispute Tribunal contesting the decision not to renew his fixed-term appointment beyond 30 June 2020.¹

2. The Respondent filed a reply on 12 November 2020 where it is argued that the application is not receivable both *ratione materiae* and *ratione temporis*. Specifically, the Respondent argues that the application is moot since there is no longer an administrative decision that is in noncompliance with the Applicant’s terms of appointment or contract of employment within the meaning of art. 2.1(a) of the Dispute Tribunal’s Statute. The Applicant’s appointment was exceptionally extended until 31 December 2020 when he reached the normal retirement age. Decisions that extend an appointment, even on a short-term basis, are in the staff member’s favour and do not adversely affect their rights.

3. The Respondent further contends that the Applicant’s claim relating to the 27 December 2006 injury is not receivable. The Applicant has not identified an administrative decision that he contests regarding his 2006 injury. The Applicant’s general references to mismanagement of his health do not constitute a contestable administrative decision. In addition, the Applicant’s claims are time-barred. On 15 April 2019, the Applicant requested management evaluation of the same claims relating to the 27 December 2006 injury that he raises in the application. Pursuant to art. 8.1(d)(i) of the Dispute Tribunal’s Statute, the deadline for the management evaluation outcome was 30 May 2019. Accordingly, the application should have been filed no later than 90 days thereafter, or by 28 August 2019. The Applicant filed the application on 6 October 2020, 405 days late. Therefore, the Applicant’s claims relating to the 2006 injury are not receivable.

¹ Application, section V.

ORDER

4. On or before 5.00 p.m. on Monday, 31 May 2021, the Applicant shall file a response to the reply specifically on the issue of receivability, as argued by the Respondent, and which shall not exceed five pages.

(Signed)

Judge Margaret Tibulya

Dated this 20th day of May 2021

Entered in the Register on this 20th day of May 2021

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi