



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2022/042
Order No.: 057 (NBI/2022)
Date: 11 May 2022
Original: English

Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

RAAD

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION
PURSUANT TO ART. 13 OF THE
UNDT RULES OF PROCEDURE**

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
AAS/ALD/OHR

Introduction

1. The Applicant is a former Chief of Service, Security Sector Reform, at the D-1 step 10 level, working with the United Nations Support Mission in Libya (“UNSMIL”) in Tripoli, Libya.¹

2. By an application filed on 10 May 2022, the Applicant seeks to suspend a decision which he describes as “non extension of fixed-term appointment for purposes of certified sick leave”.²

Facts

3. The Applicant submits in his application that he was due to retire on 31 March 2021, but that due to his critical role in the negotiations which led the Libyan warring parties reaching a ceasefire, UNSMIL extended his contract beyond his mandatory retirement date, initially for six months until 30 September 2021, and further extended it until 31 March 2022.³

4. In March 2022, the UNSMIL Medical Unit placed the Applicant on a certified sick leave until 29 May 2022; a period beyond his retirement date of 31 March 2022.⁴

5. The Applicant avers that UNSMIL has declined to approve a further extension of his contract beyond 31 March 2022 up to 29 May 2022 to cover the period of sick leave.⁵

6. The Applicant states that he did not request management evaluation of the contested decision.⁶

¹ Application, section II.

² Ibid., at section V.

³ Ibid., at section VII, para. 2.

⁴ Ibid, at para. 6.

⁵ Ibid, at para.7.

⁶ Ibid., at, section VI.

Considerations

7. An urgent injunctive order under the UNDT Rules of Procedure (“ROP”) brought under art. 13 of the ROP must be of a matter pending management evaluation. In this case, the Applicant is yet to request the management evaluation of the decision he seeks to contest before the Tribunal. At the time of disposing of the present application, the Tribunal has no record of a management evaluation request being filed, thus rendering the application not receivable.

8. It is settled case law that requesting management evaluation is a mandatory first step in the appeal process. An application before the UNDT without a prior request for management evaluation can only be receivable if the contested administrative decision has been taken pursuant to advice from a technical body, as determined by the Secretary-General, or if the administrative decision has been taken at Headquarters in New York to impose a disciplinary or non-disciplinary measure pursuant to staff rule 10.2 following the completion of a disciplinary process.⁷

8. In an application for suspension of action, the failure to request management evaluation is a matter of law which may be considered *ex officio*, even without serving the application on the Respondent for a reply.⁸ The Tribunal sees no need to seek a reply in the current circumstances. Once the management evaluation has been properly requested, the possibility of applying for a suspension of action may be revived.

ORDER

9. This application is dismissed as not receivable.

(Signed)

Judge Margaret Tibulya

Dated this 11th day of May 2022

⁷ Mackie 2020-UNAT-1062, para. 16.

⁸ Ajdini *et al* 2011-UNAT-108, para. 23.

Entered in the Register on this 11th day of May 2022

(Signed)

Eric Muli, Legal Officer, for
Abena Kwakye-Berko, Registrar, Nairobi