



Before: Judge Francis Belle
Registry: Nairobi
Registrar: Eric Muli, Officer-in-Charge

DHINDSA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for the Applicant:

Manuel Calzada

Counsel for the Respondent:

Nicole Wynn, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant holds a permanent appointment at the D-2 level. He served as the Director of Mission Support (“DMS”) of the United Nations Support Office for Somalia (“UNSOS”) in Mogadishu, Somalia, until October 2022.

2. On 7 February 2024, the Applicant filed an application pursuant to art. 2.2 of the Dispute Tribunal’s Statute and art. 13 of its Rules of Procedure, for suspension of the Respondent’s decisions to extend his placement on Special Leave With Full Pay (“SLWFP”) as well as the recruitment for the Director Mission Support (“DMS”) position which he encumbers (“the contested decisions”).

3. The Respondent filed his reply on 12 February 2024.

Summary of relevant facts

4. In October 2022, the Applicant was notified that the Government of Somalia had verbally informed the Secretary-General through Somalia’s Permanent Representative to the United Nations in New York, that he was not welcome to return to Somalia.

5. The Applicant was thus placed on SLWFP with effect from 17 November 2022, pending efforts to find him a suitable alternate placement if he was declared *persona non grata*.

6. On 4 December 2023, the Applicant was informed that his SLWFP had been extended to 19 February 2024.

7. On 22 December 2023, the Applicant requested management evaluation of the contested decisions.

8. By letter dated 8 February 2024, the Management Advice and Evaluation Section (“MAES”) issued a response to the Applicant’s 22 December 2023 request for management evaluation.

Consideration

9. Art. 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 (bold emphasis added).

10. In the present case, MAES has already issued a response to the Applicant's 22 December 2023 request for management evaluation. There is no management evaluation pending and, consequently, one of the mandatory requirements for the examination of applications for suspension of action is not met.

Conclusion

11. In view of the foregoing, the application for suspension of action pending management evaluation is dismissed as not receivable.

(Signed)

Judge Francis Belle

Dated this 13th day of February 2024

Entered in the Register on this 13th day of February 2024

(Signed)

Eric Muli, Officer-in-Charge, Nairobi