



Before: Judge Sean Wallace
Registry: Nairobi
Registrar: René M. Vargas M., Officer-in-Charge

WASIKE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

UNHCR

Introduction

1. The Applicant is a Senior Executive Support Associate working with the East Horn of Africa and Great Lakes Regional Bureau, Office of the United Nations High Commissioner for Refugees (“UNHCR”).
2. By an application filed on 1 April 2024, the Applicant seeks to suspend a decision that she describes as “separation from employment”.

Factual background

3. By a letter dated 6 February 2024, UNHCR informed the Applicant, among others, that “as you are aware, your fixed term appointment is due to expire on 3rd April 2024. We are proceeding with your separation with the last day of service being 3rd April 2024”.
4. The Applicant states that on “14 February 2024, while away on one day annual leave, [she] received [the] separation memo dated 6 February 2024”.
5. As per sec. VI of her application form, the Applicant requested management evaluation of her separation decision on 20 March 2024. The Management Evaluation Unit is yet to issue its decision.

Consideration

6. Art. 2.2 of the Tribunal’s Statute and art. 13 of its Rules of Procedure provide 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. The Dispute Tribunal can suspend the contested decision only if all three requirements have been met.

Urgency

7. Urgency is relative and each case will turn on its own facts, given the exceptional and extraordinary nature of interim relief through the suspension of the implementation of a contested decision. If an applicant seeks the Tribunal's assistance on an urgent basis, she or he must come to it at the first available opportunity, taking the particular circumstances of her or his case into account (*Evangelista* UNDT/2011/212). The requirement of particular urgency will not be satisfied if the urgency was created or caused by the applicant (*Villamorán* UNDT/2011/126; *Dougherty* UNDT/2011/133).

8. The Applicant states that she considers this matter urgent because:

- a. She has submitted her management evaluation request to UNHCR and the request is still pending decision;
- b. Her separation date is drawing closer, i.e., Wednesday 3 April 2024; and
- c. Once she completes the separation process, she cannot pursue the matter as an external entity/party.

9. The Tribunal notes that the Applicant was aware of the contested decision at least for a period of about six weeks. The Applicant ought to have come to the Tribunal at the first possible opportunity to seek the interim preservation of her rights.

10. The Applicant in this case fails to provide any reason why she took such a long time to submit the present application and the reasons she advances are not persuasive.

11. Therefore, the Tribunal considers that, in this case, the urgency was self-created.

Prima facie unlawfulness

12. The Tribunal further observes that the Applicant does not allege anything unlawful about the expiration of her contract. She only mentions other job opportunities she has applied for but did not get. Moreover, she does not indicate whether she requested management evaluation or judicial review of the non-selection decisions.

Irreparable harm

13. As the Applicant has not satisfied the requirements of urgency and *prima facie* unlawfulness, there is no need to examine the requirement of irreparable harm.

Conclusion

14. In light of the above, the application for suspension of action is rejected.

(Signed)

Judge Sean Wallace

Dated this 2nd day of April 2024

Entered in the Register on this 2nd day of April 2024

(Signed)

René M. Vargas M., Officer-in-Charge, Nairobi