



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

GHAZAL

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Nicole Wynn, AS/ALD/OHR, UN Secretariat  
Fatuma Mninde-Silungwe, AS/ALD/OHR, UN Secretariat

## **Introduction**

1. By application filed on 1 July 2024, the Applicant, a staff member of the United Nations Support Office in Somalia (“UNSOS”), requests suspension of action pending management evaluation, of the decision that he described as:

[T]he change of advertisement of the TRANSPORT OFFICER (Chief Transport Officer), FS7, 231547, United Nations Interim Force in Lebanon, NAQOURA, that requested application through Recruit from Roster (RFR) on 27/3/2024 for which I submitted my application on 1/4/2024. Unfortunately, I received an alert on 25/6/2024 informing me of the post cancellation, the post was later readvertised as PSJO (24-Transportation-UNIFIL-237477-RNAQOURA

2. The application for suspension of action was served on the Respondent, who filed his reply on 4 July 2024.

## **Facts**

3. On 26 March 2024, the Administration advertised a Recruit from Roster (“RfR”) job opening 231547 in Inspira,

4. The Applicant Applied for the position on 1 April 2024.

5. Nine candidates were deemed eligible for the Hiring Manager’s suitability review. After these candidates were evaluated against the required and desirable criteria stipulated in the job opening, seven were longlisted and two were shortlisted. According to the record, the Applicant was placed on the Long List because he only met the required criteria. He was not placed on the Short List because he did not meet the desirable criteria including a technical or vocational certificate in a related field.

6. On 11 June 2024, the Hiring Manager interviewed the two shortlisted candidates and determined that neither demonstrated “the capacity or ability to lead the Transport Section as a Section Chief in UNIFIL”. As a result, the Hiring Manager requested to readvertise the post through a Position Specific Job Opening (“PSJO”) to find a qualified replacement before the incumbent’s departure.

7. On 24 June 2024, Job Opening 24-Transportation-UNIFIL-237477-R-NAQOURA (M) was posted in Inspira.

8. The following day, the Applicant received an alert notifying that the recruitment for which he applied was cancelled and readvertised under a PSJO.

9. On 1 July 2024, the Applicant requested management evaluation of the decision to cancel the RfR job opening and to readvertise the position. On the same day, he filed with the Tribunal an application for suspension of action pending management evaluation.

### **Consideration**

#### *Receivability*

10. The Respondent argues that the application is not receivable because the contested decision has already been implemented and is not a reviewable decision.

11. The Statute of the Dispute Tribunal provides that the Tribunal is competent “to hear and pass judgment on an application ... requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation”. Article 2.2 (emphasis added).

12. Thus, it is axiomatic that the authority to suspend implementation does not apply when the contested decision has already been implemented. (See, e.g., *Mills-Aryee* UNDT/2011/051, paras. 17-18; *Igbinedion* UNDT/2011/110, para. 26; *El-Awar* UNDT/2017/023, paras. 19-21).

13. The decision to cancel the RfR recruitment job opening and to readvertise it as a PSJO was implemented on 24 June 2024. Thus, the implementation is no longer pending and subject to suspension.

14. Moreover, the decision to readvertise is merely a preparatory and intermediate step in the recruitment decision. Only a decision taken at the end of the recruitment's process with direct legal consequences for the Applicant would constitute an administrative decision subjected to review. *Avramoski* 2020-UNAT-987, para. 39; *Faye* 2016-UNAT-657, para.30; *Nguyen Kropp & Postica* 2015-UNAT-509, para. 33; *Lee* 2014-UNAT-481, paras. 48-49; *Ngokeng* 2014-UNAT-460, para. 27; *Ishak* 2011-UNAT-152, para. 29; *Andati-Amwayi* 2010-UNAT-058, para.17.

15. Thus, the application is not receivable. Even if it were, the application would fail on the merits.

16. Article 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. These three requirements are cumulative. In other words, they must all be met in order for a suspension of action to be granted. Furthermore, the burden of proof rests on the Applicant.

#### *Prima facie unlawfulness*

17. The Tribunal recalls that the threshold required in assessing this condition is that of "serious and reasonable doubts" about the lawfulness of the impugned decision (*Hepworth* UNDT/2009/003, *Corcoran* UNDT/2009/071, *Miyazaki* UNDT/2009/076, *Corna* Order No. 90 (GVA/2010), *Berger* UNDT/2011/134, *Chattopadhyay* UNDT/2011/198, *Wang* UNDT/2012/080, *Bchir* Order No. 77 (NBI/2013), *Kompass* Order No. 99 (GVA/2015).

18. To perform the functions of Chief of Transport Section, none of the roster candidates met the requirements of the RfR. Consequently, the hiring manager requested to readvertise the position through a PSJO, which the Administration lawfully did on 24 June 2024.

19. This appears to be in complete accord with the applicable staff regulations and rules and, in particular, with administrative instruction ST/AI/2010/3/Rev.3, which addresses the Staff Selection System. As such, the Applicant has failed to establish that the decision to cancel the RfR job opening and to readvertise it as a PSJO is *prima facie* unlawful.

20. Given the cumulative nature of the conditions to be met for the granting of a suspension of action, the Tribunal does not find it necessary to consider whether the contested decision is urgent or whether it would cause irreparable damage. *Evangelista* UNDT/2011/212; *Dougherty* UNDT/2011/133.

### **Conclusion**

21. In view of the foregoing, it is ORDERED that the application for suspension of action pending management evaluation is rejected.

*(Signed)*

Judge Sean Wallace

Dated this 8<sup>th</sup> day of July 2024

Entered in the Register on this 8<sup>th</sup> day of July 2024

*(Signed)*

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