



Before: Judge Sean Wallace

Registry: Nairobi

Registrar: Wanda Carter

OOKO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Lucienne Pierre, AS/ALD/OHR, UN Secretariat

Tamal Mandal, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is the Chief of Unit, Information Systems and Telecommunications working with the United Nations Integrated Transition Assistance Mission in Sudan (“UNITAMS”).
2. By an application filed on 29 August 2024, the Applicant seeks to suspend a decision which he terms as “request for Suspension of Action specific to position of Chief of Unit, Information Systems and Telecommunications-P4, JO# 239434, UNIFIL, Naqoura- Lebanon”.
3. On 30 August 2024, the Respondent filed a reply submitting that the application is not receivable as the matter is no longer pending management evaluation. Further, the Respondent contends that the Applicant has failed to identify a reviewable administrative decision.

Factual background

4. On 1 December 2023 the United Nations Security Council, by resolution 2715 (2023) terminated the mandate of UNITAMS.
5. On 29 January 2024, UNITAMS notified the Applicant of the decision to terminate his permanent appointment in accordance with Staff Regulation 9.3 (c) and staff rule 9.7.
6. On 19 and 21 February 2024, the Applicant requested management evaluation of the decision to terminate his permanent appointment and the suspension of the same decision.
7. On 28 March 2024, the Management Advice and Evaluation Section (“MAES”) upheld the decision to terminate his permanent appointment.
8. UNITAMS then informed the Applicant that his functions were among those required in the liquidation team, effective 1 March 2024 to 31 August 2024.
9. On 19 May 2024, the Applicant received a new notice of termination of his permanent appointment and his service on the liquidation team. The second notice

stated that the post for which he had been retained for the liquidation team would be abolished effective 31 August 2024.

10. The Applicant requested management evaluation of the renewed decision to terminate his permanent appointment in June 2024. On 9 July 2024, MAES upheld this decision.

11. On 7 August 2024, the United Nations Interim Force in Lebanon (“UNIFIL”) advertised the position of Chief of Unit, Information Systems and Telecommunications-P4, JO#239434. On 12 August 2024, the Applicant applied for the post as part of his efforts to remain in service.

12. Having realized that the position advertised by UNIFIL was still vacant, on 25 August 2024, the Applicant submitted a request to MAES requesting them “the Organization to make its best good faith effort to retain [him] in service” by granting him the position in UNIFIL.

13. On 26 August 2024, MAES acknowledged receipt of his request. MAES further asked the Applicant to confirm whether he had received notice of the outcome of the UNIFIL selection or noted its status in Inspira as completed.

14. On the same day, the Applicant replied to MAES stating that he had not received the notification from UNIFIL.

15. On 29 August 2024, the Applicant filed the present application for suspension of action pending management evaluation. On the same day, MAES issued its decision stating that:

In the present case, as the selection process for the Post is still ongoing, there is no appealable administrative decision which has direct legal consequences on your contractual rights. Consequently, we have determined that your present request for a management evaluation is not receivable.

Consideration

16. The 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.

17. In its reply, the Respondent has provided annex R/1 which clearly indicates that MAES issued its decision on 29 August 2024. Therefore, there is no longer a management evaluation request pending before MAES.

18. Accordingly, the Applicant's request for suspension of the implementation of the contested administrative decision has been overtaken by events. It follows, therefore, that it is not necessary for the Tribunal to examine if the three statutory requirements specified in art. 2.2 of its Statute, namely *prima facie* unlawfulness, urgency and irreparable-damage are met in the case at hand.

Conclusion

19. In light of the above, the application for suspension of action is denied.

(Signed)

Judge Sean Wallace

Dated this 30th day of August 2024

Entered in the Register on this 30th day of August 2024

(Signed)

Wanda Carter., Registrar, Nairobi