



Before: Duty Judge
Registry: Nairobi
Registrar: Wanda L. Carter

SHIALA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON THE RESPONDENT'S MOTION
TO DETERMINE RECEIVABILITY AS
A PRELIMINARY MATTER**

Counsel for Applicant:
Chadrack Koko Kaswa

Counsel for Respondent:
Alister Cumming, UNICEF

Introduction

1. The Applicant, a former driver, working with the United Nations Children’s Fund (“UNICEF”), on 4 September 2024 filed an incomplete application, which he completed on 17 September 2024, contesting UNICEF’s decision to separate him from service due to misconduct.
2. The deadline for the filing of the Respondent’s reply is 18 October 2024.
3. On 27 September 2023, the Respondent filed a motion requesting the Tribunal to: (i) suspend the Respondent’s deadline for the filing of the reply pending the determination of the motion, and (ii) determine receivability as a preliminary matter and dismiss the application.

Consideration

4. The Tribunal, in accordance with articles 19 and 35 of its Rules of Procedure, considers that it would be appropriate for the fair and expeditious disposal of the case to partially grant the Respondent’s motion to have receivability determined as a preliminary matter.
5. Further the Tribunal determines that the Applicant should be given an opportunity to respond to the argument that the application is not receivable *ratione temporis*.

Conclusion

6. In view of the foregoing, it is ORDERED THAT:
 - a. The deadline for the Respondent’s reply is suspended pending the determination of receivability.
 - b. The Applicant shall file a rejoinder on the issue of receivability on or before **Monday, 14 October 2024**. The rejoinder shall not exceed five pages, in font Times New Roman, font size 12, line spacing of 1.5 lines.

Case No. UNDT/NBI/2024/061

Order No. 135 (NBI/2024)

(Signed)

Judge Sean Wallace (Duty Judge)

Dated this 1st day of October 2024

Entered in the Register on this 1st day of October 2024

(Signed)

Wanda L. Carter, Registrar, Nairobi