



Before: Judge Alessandra Greceanu

Registry: New York

Registrar: Hafida Lahiouel

MASLEI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Karen Madeleine Farkas, UNHCR

Introduction

1. On 9 May 2014, the Applicant, a former staff member with the United Nations High Commissioner for Refugees (“UNHCR”) in Pakistan, submitted an application for suspension of action, pending management evaluation, of the decision to separate her from service.

Background

2. The Applicant joined UNHCR in November 2010 as a Resettlement Officer at the P-3 level on a fixed-term appointment (“FTA”).

3. On 28 November 2013, the Applicant was verbally informed by the UNHCR Country Representative that her FTA would not be renewed upon its expiry on 31 December 2013 due to performance reasons.

4. On 4 December 2013, the Applicant was informed, via a Memorandum titled “Your separation from UNHCR” that in light of the fact that her FTA was due to expire on 31 December 2013, UNHCR was proceeding to separate her from service effective 1 January 2014. The Applicant’s FTA was subsequently extended until 31 January 2014 in order to cover certain entitlements due to her and she was separated from service effective 1 February 2014.

5. On 27 January 2014, the Applicant requested management evaluation of the decision to separate her from service as of 1 January 2014. As of date, no answer has been provided to the Applicant.

Consideration

6. Pursuant to art. 2.2 of the Statute of the Dispute Tribunal, the Tribunal is competent to hear and pass judgement on an application filed by an individual 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, where the decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal. [emphasis added]

7. Therefore, for an application for suspension of action to be successful it must satisfy the following cumulative conditions:

- a. The application is receivable because it concerns an administrative decision that may properly be suspended by the Tribunal;
- b. The contested decision has not yet been implemented;
- c. The Applicant has submitted a request for management evaluation of the contested decision, which evaluation is currently pending;
- d. The impugned administrative decision appears prima facie to be unlawful;
- e. The case is of particular urgency; and
- f. Its implementation would cause irreparable damage.

8. The decision being contested by the Applicant is the decision by UNHCR to terminate her FTA as of 31 December 2013 which, following certain administrative requirements, was postponed until 31 January 2014.

9. As part of her application the Applicant, as confirmed by the Respondent in his reply, stated that her “contract was terminated as of 01/02/2014” resulting in the implementation of the decision to separate her from service.

10. Seeing that in the present case the administrative decision has already been implemented, one of the cumulative conditions required for the granting of a suspension of action pending management evaluation cannot be met.

11. There is therefore no need for the Tribunal to further analyze the other conditions for the granting of a suspension of action, including whether a request for suspension of action is receivable following the expiry of the period by which a staff member is supposed to receive a response to his or her request for management evaluation.

Conclusion

12. The application for suspension of action pending management evaluation is rejected.

(Signed)

Judge Alessandra Greceanu

Dated this 14th day of May 2014