



Before: Judge Goolam Meeran

Registry: New York

Registrar: Hafida Lahiouel

SINGH

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:
Self-represented

Counsel for Respondent:
ALS

1. On 9 March 2015, the Applicant, a D-1 level Deputy Director for Risk and Compliance in the United Nations Joint Staff Pension Fund (“UNJSPF”), in New York, filed an application for suspension of action pending management evaluation of the decision to require that candidates for a D-2 job opening in the Investment Management Division should possess a Chartered Financial Analyst (CFA) certification to be eligible for consideration for this post.

Consideration

2. Applications for suspension of action are to be decided in accordance with art. 2.2 of the Statute of the Dispute Tribunal and art. 13 of the Tribunal’s Rules of Procedure.

3. It is clear that the Tribunal is under a duty to transmit a copy of the suspension of action application to the Respondent and to issue a decision within five days thereof. There is no requirement, either under art. 2.2 of the Statute or art. 13 of the Rules of Procedure, for the Tribunal to await the Respondent’s response before the applicant’s request is considered.

4. An application under art. 2.2 of the Statute is predicated upon an ongoing and pending management evaluation of an administrative decision that may properly be suspended by the Tribunal. Further, the Applicant has to satisfy the three requirements of art. 13 of the Tribunal’s Rules of Procedure that the decision *appears* to be *prima facie* unlawful, that the matter is of particular urgency and that the implementation of the decision would cause irreparable damage.

5. The central issue in this case is whether it is discriminatory to require a candidate to be the holder of CFA certification in order to be eligible for consideration for the post. On the face of it, the request identifies a credible issue of fact and law which requires a judicial determination.

6. However, the Tribunal notes that this is the second request, by the Applicant, for suspension of action. The first request, made on 2 March 2015, was refused on the ground that the Applicant stated that he had not requested management evaluation of the decision he was contesting. By Order No. 36 (NY/2015), dated 3 March 2015, the Tribunal held in relation to the Applicant's first request that "there being no pending management evaluation, the application for suspension of action is fatally defective and stands to be dismissed".

7. The current request was preceded by a request for management evaluation made on 3 March 2015, wherein the Applicant requested: (a) suspension of the job posting; (b) review of the job requirement by both the "IC" and the "CEO"; and (c) republishing the job posting so that the eligibility requirements are lawful and fair to all candidates.

8. The MEU replied to the Applicant by email dated 6 March 2015, stating that "the MEU only has the authority to suspend administrative decisions related to determinations of appointment and separations from service".

9. Given the clear message that the MEU considers that it has no authority to grant a suspension of a job posting, the relief sought by the Applicant will not be further pursued by the MEU. It would appear that there is no longer any matter pending before the MEU.

10. It is a matter of surprise that the Applicant should still file an "application for suspension of action pending management evaluation" when the MEU informed him by email that it does not have the authority to order the requested suspension of action. It would appear that, as a self-represented person, the Applicant is not entirely clear as to the legal regime applicable and has misunderstood the final sentence of the MEU's email which states "[t]he authority to suspend other types of administrative decisions rests with the United Nations Dispute Tribunal".

11. However, since he is a self-represented person, the Tribunal considers it appropriate to inform the Applicant that the proper construction to place on the MEU's email is that, should he wish to pursue the matter, he should file a substantive claim before the Dispute Tribunal together with a request for interim measures in accordance with art. 14 of the Tribunal's Rules of Procedure.

Conclusion

12. This application for suspension of action is refused.

(Signed)

Judge Goolam Meeran

Dated this 9th day of March 2015