



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

MALHOTRA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON MOTION FOR EXTENSION OF
DEADLINE**

Counsel for Applicant:
Monika Bileris

Counsel for Respondent:
UNICEF

Introduction

1. On 18 October 2019, the Applicant filed a motion for extension of time to file an application before the Dispute Tribunal in respect of a decision to impose a disciplinary sanction against her. By Order No. 144 (NY/2019), the Tribunal granted the motion and extended the deadline for filing an application until 21 November 2019.

2. On 18 November 2019, the Applicant filed the “motion for stay of proceedings pending proposed mediation”. The Applicant seeks a further extension of time to file an application on the basis that she has requested the Organization to engage in mediation to resolve the matter amicably and informally and that the request for mediation is still pending before the Organization.

Considerations

3. Article 8.1(d)(iv) of the Dispute Tribunal’s Statute provides that where the parties have sought mediation within the deadlines for the filing of an application but did not reach an agreement, the application is receivable if “filed within 90 calendar days after the mediation has broken down in accordance with the procedures laid down in the terms of reference of the Mediation Division”. In *Abu-Hawaila* 2011-UNAT-118, the Appeals Tribunal held that the exceptional suspension of time limits provided for under art. 8.1 of the Dispute Tribunal’s Statute applies only to informal dispute resolution conducted through the Office of the Ombudsman and “[t]he suspension of time limits cannot be extended by analogy to other informal dispute resolution procedures, precisely because of its exceptional character”.

4. In this case, the Applicant proposed *inter partes* discussions to resolve the matter informally, and therefore art. 8.1(d)(iv) of the Tribunal’s Statute does not apply to such informal resolution discussion.

5. While the Dispute Tribunal may suspend the deadlines for a limited period of time in exceptional circumstances under art. 8.3 of its Statute, given the above-mentioned specific limitations for the exceptional suspension of time limits pending informal resolution, the Tribunal finds that the reason provided by the Applicant does not make this case exceptional within the meaning of art. 8.3 of its Statute.

IT IS ORDERED THAT:

6. The Applicant's motion is denied, and the Applicant shall file her application, if any, on or before **5:00 p.m. on Thursday, 21 November 2019**.

(Signed)

Judge Joelle Adda

Dated this 18th day of November 2019