



Before: Judge Joelle Adda

Registry: New York

Registrar: Nerea Suero Fontecha

DE MELO CABRAL

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON MOTION FOR EXTENSION OF
TIME TO FILE AN APPLICATION**

Counsel for Applicant:
Setondji Roland Adjovi

Counsel for Respondent:
UN Secretariat

Introduction

1. On 28 March 2022, the Applicant filed a motion for extension of time to file an application before the Dispute Tribunal in respect of the imposition of disciplinary sanction.

Factual background

2. By letter dated 6 January 2022, the Applicant was imposed the disciplinary sanction.

3. On 28 March 2022, the Applicant, through his Counsel, filed a motion for extension of time to file an application, requesting the Tribunal to extend the deadline until 6 May 2022.

Considerations

4. Article 8.3 of the Dispute Tribunal's Statute provides that the Dispute Tribunal "may decide in writing, upon written request by the applicant, to suspend or waive the deadlines for a limited period of time and only in exceptional cases". Article 7.5 of the Dispute Tribunal's Rules of Procedure reiterates that in exceptional cases an applicant may request a suspension, waiver or extension of the time limits for filing an application. Article 7.5 further states that any such request shall succinctly set out the exceptional circumstances that, in the view of the applicant, justify the request.

5. In *Gelsei* 2020-UNAT-1035, the Appeals Tribunal held that if an applicant requests a suspension, waiver or extension of the time limits, then an applicant bears the burden to prove "any circumstances beyond [her/his] control that would have the effect of preventing him from acting within the statutory time limits" (para. 30). The Appeals Tribunal stated that the circumstances should meet "the test of untypicality or unusualness" (para. 34).

6. In this case, the Applicant submits that once he was notified of the disciplinary sanction, he sought the support of the Staff Union and the Office of Staff Legal Assistance (“OSLA”), but the Staff Union only informed him on 15 March 2022 that it would not be able to assist him. The Applicant submits that he then decided to engage Counsel who filed this motion on his behalf. The Applicant’s Counsel submits that due to the complexity of the case and the pandemic’s negative impact on his legal team, he cannot be ready to file the application on merits before the statutory deadline in such short notice.

7. The Tribunal finds that the Applicant fails to present any circumstances beyond his control that prevented him from seeking legal representation and filing an application within the statutory time limits. The Applicant does not explain nor provide any supporting documents as to why he decided to rely on the Staff Union and took no action to secure alternative assistance for over two months. The Applicant’s explanation does not show any exceptional circumstances that could justify the extension of the deadline. Therefore, the Applicant’s request is rejected.

IT IS ORDERED THAT:

8. The Applicant’s motion for extension of time to file an application is denied.

(Signed)

Judge Joelle Adda

Dated this 29th day of March 2022