



Before: Judge Sun Xiangzhuang, Duty Judge

Registry: New York

Registrar: Isaac Endeley

MAIA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON APPLICATION FOR SUSPENSION
OF ACTION

Counsel for Applicant:

Robbie Leighton, OSLA

Counsel for Respondent:

Jenny Kim, AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is currently serving at the D-1 level as the Head of the Timbuktu Office of the United Nations Multidimensional Integrated Stabilization Mission in Mali (“MINUSMA”). He contests the “[d]ecision to laterally transfer [him] to D-1 Director SSR/[DDR] post in Bamako for functions as yet undefined”. On 2 August 2023, he filed a request for management evaluation of the contested decision and the present application for suspension of action pending management evaluation.

2. The Applicant asserts that from 15 April 2022 until 30 June 2023, he was “on reimbursable loan and subsequent [temporary duty assignment – TDY]” with the Office of the United Nations Resident Coordinator in Myanmar. Throughout this period, he continued to encumber his post at MINUSMA and remained on the Mission’s payroll as “Head of Office Timbuktu”. Other staff members served as Officers-in-Charge on a rotational basis, and no one was ever appointed to replace him in the post. At the end of his loan and TDY period, and following a few weeks of leave, the Applicant returned to MINUSMA on 13 July 2023. The next day, 14 July 2023, he was asked “not to resume duties in Timbuktu and [to] wait in Bamako for further instructions”. This request was made “orally and was not documented in writing”. He was subsequently advised that he was to remain in Bamako as the “Special Advisor” to the Special Representative of the Secretary-General in Mali and that he would be transferred to the “vacant post of SSR/DDR Director [at the D-1 level]”. The Applicant objected to the transfer, noting that “it would impact on his job security and entitlements in a mission already in drawdown”.

3. On 7 August 2023, as directed by the Duty Judge, the Respondent filed a reply in which he stated that the application is now moot because “MINUSMA has decided to suspend the implementation of the contested decision pending management evaluation and the Applicant has been informed of the same”.

Considerations

4. The Tribunal notes the Respondent's undertaking not to implement the contested decision pending management evaluation. Since the Applicant has now received the interim remedy he sought, the application is moot (see, for instance, the Appeals Tribunal in *Toson* 2021-UNAT-1161, para. 27; *Guetgemann* 2022-UNAT-1201, para. 22; *Mboob* 2022-UNAT-1215, para. 33). The application is therefore to be rejected.

IT IS ORDERED THAT:

5. The application is rejected. There being no matter remaining for adjudication by the Dispute Tribunal, Case No. UNDT/NY/2023/025 is hereby closed.

(Signed)

Judge Sun Xiangzhuang, Duty Judge

Dated this 8th day of August 2023

Entered in the Register on this 8th day of August 2023

(Signed)

Isaac Endeley, Registrar, New York