



Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

RONVED

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Nicole Wynn, AAS/ALD/OHR, UN Secretariat

Maureen Munyolo, AAS/ALD/OHR, UN Secretariat

Introduction and Procedural History

1. The Applicant serves as a Human Resources (“HR”) Officer with the United Nations Support Office in Somalia (“UNSOS”). The Applicant holds a fixed-term appointment at the P-3 level and is based in Mogadishu, Somalia.
2. On 22 May 2022, the Applicant filed an application before the United Nations Dispute Tribunal sitting in Nairobi to suspend the selection exercise in respect of Job Opening (“JO”) No. 178301 on ground that an irregular decision has been made as to the Applicant’s eligibility for that post.
3. The Respondent filed his reply to the application on 24 May 2022, which filing was swiftly followed by a response from the Applicant.

Facts and Submissions

4. The Applicant contends that the determination of the Applicant’s ineligibility for the post is *prima facie* unlawful. The Applicant further argues that allowing the selection exercise to proceed would cause irreparable harm, and that the issue is urgent because a written exam for shortlisted candidates is imminent.
5. The Respondent’s principal argument in respect of the impugned decision is that it is not receivable, and he submits that a decision has not been taken regarding the Applicant’s eligibility for the P-5 position. The Applicant applied for a P-5 position on 1 May 2022 and recruitment for that position is ongoing. The Applicant has not been notified of their ineligibility for the position. There is no contestable administrative decision to suspend.

Deliberations

6. Article 13 of the Tribunal’s Rules of Procedure provides in the pertinent part as follows:
 1. The Dispute Tribunal shall order a suspension of action 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** (emphasis

added) 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.

7. The Applicant by motion has clarified that the only decision challenged is the decision to find the Applicant ineligible for a position at the P-5 level.

8. In this regard, the Respondent maintains that there has been no decision to declare the Applicant ineligible to apply for a position at the P-5 level, and that recruitment for the P-5 position is ongoing. Further that the Applicant has not been notified of ineligibility for the position, and so there is no contestable administrative decision to suspend.

9. The Tribunal notes that the Applicant's submissions in response to the Respondent's reply is silent on the receivability arguments raised by the latter.

10. The Applicant does not dispute the assertion that the recruitment is ongoing and has not been notified of ineligibility for the position but only premises ineligibility for the position on the basis of an excerpt from INSPIRA.

11. The origin of the excerpt on which the Applicant's case is based is of unknown origin and does not constitute a contestable administrative decision within the meaning of art. 13 of the Tribunal's Rules of Procedure. The Applicant admits that the excerpt is the sole basis for the claim of ineligibility for the position. Since the INSPIRA excerpt is not a contestable administrative decision, in keeping with Tribunal jurisprudence¹ the Tribunal finds that there is no contestable administrative decision to suspend.

12. The application is therefore DISMISSED.

¹ *Allous* Order No. 166 (GVA/2021), para. 14 (dismissing an application where no decision was taken). *See also Kilemi* Order No. 262 (NBI/2015), para. 14.

Case No. UNDT/NBI/2022/043

Order No. 062 (NBI/2022)

(Signed)

Judge Margaret Tibulya

Dated this 27th day of May 2022

Entered in the Register on this 27th day of May 2022

(Signed)

Eric Muli, Legal Officer, for

Abena Kwakye-Berko, Registrar, Nairobi