



Before: Judge Francesco Buffa

Registry: Geneva

Registrar: René M. Vargas M.

REHMAN

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Filippo Pucci, WFP

Brynna Connolly, WFP

Introduction

1. By an application filed on 6 February 2020, the Applicant requests suspension of action pending management evaluation of the World Food Programme (“WFP”) decision to withdraw the conditional offer of employment that WFP Pakistan Country Office had made to her as a Business Support Assistant (Programme) at the GS-4 level.

Facts

2. In September 2019, the Applicant applied for the position of Business Support Assistant (Programme) at the GS-4 level in WFP’s Pakistan Country Office in Islamabad.

3. After the Applicant succeeded through all phases of recruitment including written test and competencies-based interview, on 27 December 2019, WFP provided the Applicant with a “conditional offer” of employment to the above-mentioned position. The offer indicated that the appointment would be confirmed “only upon receipt of three satisfactory references and the medical clearance(s)”.

4. By email dated 22 January 2020, the Applicant was informed of the WFP decision to withdraw the conditional job offer due to “unsatisfactory background check”.

5. On 5 February 2020, the Applicant submitted to the Executive Director, WFP, a request for management evaluation of the decision to withdraw the conditional offer of employment made to her by WFP Pakistan Country Office.

6. On 10 February 2020, the Applicant changed her 5 February 2020 filing from a “request for management evaluation” to an “appeal to review the decision of management of WFP”.

7. On 6 February 2020, the Applicant filed the present application for suspension of action.

8. On 10 February 2020, the application was transmitted to the Respondent who filed his reply on 12 February 2020.

Consideration

9. The Respondent challenges the receivability of the application. He argues that the application is not receivable pursuant to art. 8.1 (a) and (b) of the Dispute Tribunal's Statute because claims against WFP do not fall within its jurisdiction under art. 2 of the Statute, and because the Applicant is not eligible to file an application pursuant to art. 3 of the same Statute.

10. Art. 3.1 of the Dispute Tribunal's Statute provides *inter alia* that an application under art. 2.1 of the Statute may be filed by "any staff member" and "any former staff member" of the United Nations, "including the United Nations Secretariat or separately administered United Nations funds and programmes".

11. The above-mentioned rule is a general one, applicable unless a specific different provision is given in relation to the specific fund or programme concerned.

12. Art. VIII of the WFP General Regulations and General Rules provides that WFP is an autonomous joint subsidiary programme of the United Nations and the Food and Agriculture Organization of the United Nations ("FAO").

13. Art. VII.6 of the WFP General Regulations and General Rules provides that the "Executive Director shall administer the staff of WFP in accordance with FAO Staff Regulations and Rules and such special rules as may be established by the Executive Director in agreement with the Secretary-General and the Director-General". Therefore, FAO Staff Regulations and Rules apply *mutatis mutandis* to WFP.

14. The Tribunal notes that under section 301.11.2 of the FAO Staff Regulations,

The International Labour Organisation Administrative Tribunal ["ILOAT"] shall, under conditions prescribed in its Statute ... hear and pass judgement upon applications from staff members alleging non-observance of their terms and conditions of appointment, including all pertinent Regulations and Rules.

15. Since the Applicant was provided with a conditional offer of employment by WFP, her claim shall be dealt with in accordance with the FAO Staff Regulations and Rules. Therefore, her claim falls within ILOAT's jurisdiction and not within the jurisdiction of this Tribunal.

16. The fact that the Applicant was a former staff member of the United Nations, having been employed by the United Nations Children's Fund ("UNICEF") and the United Nations Development Programme ("UNDP"), among other entities, is irrelevant in the case at hand, as the contested decision was made by WFP, and the previous work relationships have no bearing on the challenged decision.

17. This Tribunal has already addressed the issue of its jurisdiction over WFP staff members in *Mukendi* Order No. 174 (NBI/2016), whereby it observed that "[o]n 1 July 2014, the Respondent transferred its national staff members ... from appointments governed by the United Nations Staff Regulations and Rules, to those governed by the FAO Staff Regulations and Rules", recognizing therefore the ILOAT jurisdiction.

18. Furthermore, the United Nations Appeals Tribunal ("UNAT") in *Iskandar*, 2011-UNAT-116 para. 23, with reference to a former staff member of WFP, acknowledged that "WFP recognizes the jurisdiction of ILOAT to hear appeals against administrative decisions by WFP's internationally recruited staff members" (so confirming the findings on this point in *Iskandar* UNDT/2010/100, paras. 41 to 44).

19. Consequently, the Tribunal finds that it does not have jurisdiction to consider the present application for suspension of action.

Conclusion

20. In view of the foregoing, the application for suspension of action is not receivable for want of jurisdiction.

(Signed)

Judge Francesco Buffa

Dated this 17th day of February 2020

Entered in the Register on this 17th day of February 2020

(Signed)

René M. Vargas M., Registrar, Geneva