



Before: Judge Sun Xiangzhuang

Registry: Geneva

Registrar: Liliana López Bello

BLAAUW

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

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

Counsel for Applicant:

Hilda Ojiambo, OSLA

Counsel for Respondent:

Nicole Wynn, AS/ALD/OHR/UN Secretariat

Victoria Mujunga, AS/ALD/OHR/UN Secretariat

Introduction

1. By application filed on 19 February 2025, the Applicant, a FS-6 Facilities Management Officer with the United Nations Global Service Centre (“UNGSC”) in Brindisi, Italy, requests suspension of action of the implementation of his separation from service effective 28 February 2025 pending management evaluation of the Administration’s decision to withdraw a conditional employment offer due to a negative reference verification.
2. The application for suspension of action was served on the Respondent, who filed his reply on 24 February 2025.
3. For the reasons set out below, the application for suspension of action is dismissed.

Facts

4. The Applicant joined UNGSC on 4 June 2024 as a FS-6 Facilities Management Officer located in the Campus Support Unit, on a temporary appointment expiring on 28 February 2025.
5. On 18 November 2024, the Applicant was selected for a fixed-term appointment to a P-4 Facilities Management Officer position in UNGSC, subject to the satisfactory completion of pre-recruitment formalities.
6. On 21 November 2024, UNGSC issued the Applicant a conditional offer of a fixed-term appointment to the P-4 Facilities Management Officer position.
7. On 23 January 2025, the Applicant was verbally informed that his offer of employment would be revoked due to a negative reference verification.
8. By email of 27 January 2025, the Applicant was formally notified of the negative reference verification, and, on 31 January 2025, the offer of employment was officially withdrawn.
9. On 10 February 2025, the Applicant requested management evaluation of the decision to withdraw his offer of employment for the aforementioned post.
10. On 19 February 2025, the Applicant filed the instant application.

11. On 20 February 2025, the Applicant's temporary appointment was extended until 31 March 2025.

12. On 24 February 2025, the Respondent filed his reply challenging, *inter alia*, the receivability of the application.

Consideration

13. Art. 2.2 of the Tribunal's Statute provides that the Tribunal shall be competent to suspend the implementation of a contested administrative decision during the pendency of management evaluation where the decision appears *prima facie* to be unlawful, in case of particular urgency, and where its implementation would cause irreparable damage. These three requirements are cumulative. In other words, they must all be met for a suspension of action to be granted. Furthermore, the burden of proof rests on the Applicant.

14. Before examining whether the Applicant has met the requirements for the test of suspension of action under art. 2.2, the Tribunal must first determine whether or not the impugned decision can properly be stayed.

15. As indicated in his application, the Applicant:

is challenging the administrative decision to withdraw his offer of employment for the post of Facilities Manager without an opportunity to be heard. He seeks a suspension of action order against the implementation of his separation from service effective 28 February 2025.

16. It is well-established that a suspension of action order may only be granted by the Dispute Tribunal if the matter under challenge is the subject of an ongoing management evaluation.

17. In this case, the Applicant's request for management evaluation refers exclusively to the decision to withdraw his offer of employment on account of a negative reference verification. Indeed, the Applicant requested the following as remedy:

Review of the [d]ecision – A thorough reconsideration of the decision to retract [his] job offer, ensuring transparency and adherence to UN staff regulations;

Opportunity to [p]resent [his] [p]osition – The chance to provide [his] perspective on this matter, including any relevant information that may have been overlooked; and

Reinstatement of the Job Offer.

18. Consequently, the offer withdrawal is the only decision that could be the subject of a suspension of action order. In fact, the Applicant’s imminent separation from service is the natural conclusion of the temporary appointment he agreed to serve as a FS-6 Facilities Management Officer. It is not part of the contested decision.

19. Therefore, the application for suspension of action is not receivable with respect to the “implementation of [the Applicant’s] separation from service”, as there is no decision to suspend *vis-à-vis* the Applicant’s imminent separation from service following the conclusion of his temporary appointment.

20. If the Applicant’s intention is to suspend his separation from service following the non-renewal of his temporary appointment, the application is equally not receivable. For one, the Applicant did not identify a non-renewal decision and did not request management evaluation of said non-renewal decision, and his temporary appointment has been extended until 31 March 2025.

21. With respect to the decision to withdraw his offer of employment as P-4 Facilities Management Officer, the application for suspension of action is likewise not receivable, albeit on different grounds.

22. Article 2.2 of the Tribunal’s Statute is clear that the Dispute Tribunal is competent to hear an application for suspension of action pending management evaluation where the contested decision has not yet been implemented. This limited scope has been extensively discussed and is well-established in the jurisprudence of the Dispute Tribunal (see *Dalgamouni* Order No. 137 (NBI/2014), *De Luca* Order No. 79 (GVA/2019), *Laurenti* Order No. 243 (NBI/2013), *Rudolf Jocondo* Order No. 71 (NBI/2024)).

23. As stated in *Applicant* Order No. 87 (NBI/2014):

24. A suspension of action order is, in substance and effect, akin to an interim order of injunction in national jurisdictions. It is a temporary order made with the purpose of providing an applicant temporary relief by maintaining the *status quo* between the parties to an application pending trial. It follows, therefore, that an order for suspension of action cannot be obtained to restore a situation or reverse an allegedly unlawful act which has already been implemented.

24. In this case, the Administration implemented the decision to withdraw the Applicant's offer of employment on 31 January 2025. Such fact is supported by evidence on record, namely, the screenshots provided by Applicant and the Respondent showing the offer withdrawal effective in Inspira on 31 January 2025.

25. As provided by the Respondent, there are no further actions to be taken to implement the withdrawal of the offer. Consequently, there is nothing to suspend.

26. The Tribunal cannot, therefore, entertain the instant application, as granting an injunction would require reversing the withdrawal of the offer of employment, which it clearly cannot do in an application for suspension of action.

27. Having found the application not receivable, the Tribunal does not find it necessary to examine whether the contested decision is *prima facie* unlawful, urgent or whether it would cause irreparable damage.

Conclusion

28. In view of the foregoing, it is ORDERED THAT the application for suspension of action pending management evaluation is dismissed.

(Signed)

Judge Sun Xiangzhuang

Dated this 26th day of February 2025

Entered in the Register on this 26th day of February 2025

(Signed)

Liliana López Bello, Registrar, Geneva