



Before: Judge Joelle Adda
Registry: New York
Registrar: Nerea Suero Fontecha

BASNYAT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER
ON CASE MANAGEMENT

Counsel for Applicant:
George G. Irving

Counsel for Respondent:
Angela Arroyo, UNDP

Introduction

1. On 3 June 2019, the Applicant, a Special Advisor at the D-2 level with the United Nations Development Programme (“UNDP”) filed the application in which he contests a “[n]otice of termination of permanent appointment following a two-month extension of the search period without having afforded priority consideration for available posts”.
2. On 11 June 2019, the Respondent filed a motion for summary judgment.
3. On 21 June 2019, the Respondent filed the reply in which he contends that the application is not receivable.
4. The case was assigned to the undersigned Judge on 16 June 2020.

Consideration

Motion for summary judgment

5. Pursuant to art. 9 of the Dispute Tribunal’s Rules of Procedure regarding summary judgement, “[a] party may move for summary judgement when there is no dispute as to the material facts of the case and a party is entitled to judgement as a matter of law”. Also, “[t]he Dispute Tribunal may determine, on its own initiative, that summary judgement is appropriate”.
6. In support of the Respondent’s motion for summary judgment, he submits that “that there is no genuine dispute as to a material fact in the Applicant’s case because the Applicant has not been notified of the termination of his permanent appointment, which is the decision that is contested by the Applicant”, and that “the Respondent is accordingly entitled to judgment as a matter of law”.

7. The Tribunal notes that there indeed appears to be a dispute regarding a material fact as the parties disagree on whether a decision to terminate the Applicant's permanent appointment has actually been taken. Accordingly, the Respondent's motion is misguided, and must be rejected.

Case management

8. The Tribunal notes that the Respondent claims that the application is not receivable because (a) "the Applicant has not been notified of the termination of his permanent appointment", and (b) "the Applicant also did not contest a decision to terminate his permanent appointment in a request for management evaluation—a prerequisite to filing the present appeal".

9. The Respondent, however, has entirely failed to make any submissions on the merits of the application, and in the reply, he seeks leave from the Tribunal to do so if the application is considered receivable.

10. As a matter of judicial economy, the Tribunal will continue the proceedings with deciding on the issue of receivability as a preliminary issue on the papers before it. Before making any final determination, the Tribunal will allow the Applicant to file a submission in response to the submission on receivability in the reply. If found not receivable, the Tribunal will close the case, but if not, it will consider the Respondent's request for filing submissions on the merits.

IT IS ORDERED THAT:

11. By **4:00 p.m. on Monday, 6 July 2020**, the Applicant is to file a response to the Respondent's submissions on receivability at a maximum of five pages, using Times New Roman, font 12 and 1.5 line spacing.

12. Unless otherwise ordered, on receipt of the aforementioned response or at the expiration of the provided time limit, the Tribunal will adjudicate on the matter of receivability and deliver Judgment based on the papers filed on record.

(Signed)

Judge Joelle Adda

Dated this 19th day of June 2020