



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2025/003
Order No.: 025 (NY/2025)
Date: 27 February 2025
Original: English

Before: Judge Solomon Areda Waktolla

Registry: New York

Registrar: Isaac Endeley

JOSEPH-SOLOZANO

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON SUSPENSION OF ACTION

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Lucienne Pierre, AS/ALD/OHR/UN Secretariat
Tamar Gongadze, AS/ALD/OHR/UN Secretariat

Introduction

1. On 21 February 2025, the Applicant, a staff member with the United Nations Department of Safety and Security (“UNDSS”), New York, filed an application for suspension of action contesting the alleged “[f]ailure to provide full and fair consideration for [her] candidacy or to address the irregularities of the [Safety and Security Section] Selection Process for the Job Opening #245061” (“contested decision”).

2. On 25 February 2025, the Respondent filed his reply. He contends that the application for suspension of action is not receivable *ratione materiae* as there is no reviewable administrative decision to suspend and that, in any event, none of the criteria for granting an application for suspension of action are fulfilled.

Factual background

3. The Applicant encumbers an S-5 level position as a Security Lieutenant, UNDSS. Between 15 October 2024 and 13 November 2024, UNDSS advertised on Inspira (the online jobsite for the United Nations Secretariat), Job Opening No. 245061 (“the JO”) for multiple positions for Security Captain at the S-6 level.

4. On 15 January 2025, the Applicant, along with other eligible candidates, was invited to participate in a written assessment to be held on 30 January 2025.

5. On 30 January 2025, the Applicant and the other candidates received the written assessment. The deadline for them to submit their responses was 11:05 a.m. (New York time).

6. On 30 January 2025, the Applicant was among 15 candidates who took the written assessment. The Applicant submitted her responses to the written assessment at 11:14 a.m. citing “technical issues”. As a result of the late submission, the Applicant was disqualified from moving to the next stage in the recruitment process and her

responses to the written assessment were not graded. Fourteen candidates submitted their written responses by the deadline of 11:05 a.m.

7. On 14 February 2025, the Applicant wrote to the Under-Secretary-General of UNDSS (“USG”), requesting suspension of the recruitment process and alleging procedural irregularities, lack of transparency and potential discriminatory impact.

8. On 14 February 2025, the USG responded stating that “[u]pon reviewing the matter in consultation with my team, I have concluded that the process was carried out in a fair and transparent manner. Whereas I fully understand that applicants who failed the test are disappointed, there is no legitimate basis to suspend the selection process or to reconsider the assessment. Doing so would undermine the integrity of the process and may unfairly disadvantage those who already passed, which constitute a breach of the exact principles of fairness and equitable treatment of all applicants”.

9. On 19 February 2025, the Applicant filed her request for management evaluation of the contested decision and on 21 February 2025, she filed the present application for suspension of action pending management evaluation.

Consideration

10. Under art. 2.2 of the Tribunal’s Statute and art. 13.1 of the Rules of Procedure, the Tribunal may 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.

11. In the present case, the Respondent submits that the application is not receivable *ratione materiae* because there is no final administrative decision to suspend. In support of his submission, he argues that the recruitment process for the advertised position is still ongoing and that no final decision has been made.

12. The Tribunal will address the receivability of the application as a preliminary matter.

Receivability

13. The Tribunal recalls that under the jurisprudence of the Appeals Tribunal, only a final decision that has direct consequences for the staff member's legal rights and obligations is receivable before the Dispute Tribunal (see *Avramoski* 2020-UNAT-987, para. 39; *Faye* 2016-UNAT-657, para. 30; *Lee* 2014-UNAT-481, paras. 48-49; *Ngokeng* 2014-UNAT-460, para. 27). A staff member may not challenge the intermediate or preparatory steps of an administrative decision (see *O'Brien* 2023-UNAT-1313, para. 24).

14. In *Abdellaoui* 2019-UNAT-928, the Appeals Tribunal held that “[t]he decision not to short-list [a staff member] is an internal step within the selection process, it is not an administrative decision. The only appealable decision in the present case is the decision not to select [a staff member] for the position in question. Only this decision is final and bears direct legal consequences” (see para. 17).

15. The Tribunal further notes that it is bound to follow the jurisprudence of the Appeals Tribunal under the legal doctrine of *stare decisis* (see, for instance, *Igbinedion* 2014-UNAT-410, paras. 23-25) and will therefore also abide by its judgment in *Abdellaoui*.

16. The Tribunal finds that, following *Abdellaoui*, the contested decision is consequently preliminary in nature as it refers to an internal step in the selection process. Like in *Abdellaoui*, the Applicant in the present case was not short-listed as she did not meet a mandatory requirement (namely to submit the written assessment by the deadline).

17. Therefore, the Tribunal finds that the present application is premature, as it concerns a recruitment process that is still ongoing and for which there has been no selection decision. The decision not to invite the Applicant for an interview is an

intermediate step that is not a final reviewable administrative decision. Consequently, the application is not receivable *ratione materiae*.

18. The Applicant, however, retains the right to contest the final decision upon completion of the selection process.

Conclusion

19. The application for suspension of action is rejected as not receivable.

(Signed)

Judge Solomon Areda Waktolla

Dated this 27th day of February 2025

Entered in the Register on this 27th day of February 2025

(Signed)

Isaac Endeley, Registrar, New York