



Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Abena Kwakye-Berko

COLLINS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
UNDP

Introduction

1. By Application filed on 5 August 2015, the Applicant, a former staff member of the United Nations Development Programme (UNDP), contests the decision to abolish the post she was encumbering as the Assistant to the UNDP Deputy Country Director in Accra, Ghana.

2. In her Application, the Applicant indicates that she has not filed a request for management evaluation because when she tried to ask questions about the letter informing her of the termination of her appointment, she was humiliated by the Deputy Country Director of Operations in UNDP, Ghana.

Considerations

3. Article 8.1 (c) of the Statute of the Dispute Tribunal stipulates that “[a]n application shall be receivable if ... [a]n applicant has previously submitted the contested administrative decision for management evaluation, where required”.

4. When an Application is received by the Tribunal, the normal procedure is to serve it on the Respondent who has 30 days to file a reply subject to an extension of time for good cause shown.

5. However, the Tribunal has the inherent power to decide a case summarily under art. 9 of the Rules of Procedure which reads:

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. The Tribunal may determine, on its own initiative, that summary judgment is appropriate.

6. The instances where the Tribunal may use that power would be:

- a. where the Application is hopelessly outside the deadline within which it should have been filed;
- b. where the Application does not meet the *ratione personae* or *ratione materiae* requirement; and

c. where the substance of the dispute has been settled and the complainant has obtained the appropriate remedy.

7. In the case of *Lee*¹, the Dispute Tribunal issued a summary judgment on its own initiative without waiting for the answer of the Secretary-General to the party's application pursuant to art. 9 of the Rules of Procedure. The Appeals Tribunal held that "the Dispute Tribunal correctly concluded that Ms. Lee's application was not receivable *ratione materiae* because it challenged a decision that was not an administrative decision subject to judicial review"².

8. The Tribunal takes note of the Applicant's averment that she did not submit a request for management evaluation upon which an application before the Tribunal is predicated because she was "asking questions" about the decision to terminate her employment. Whilst it is quite legitimate for a staff member to query an administrative decision or engage in discussions about the propriety of the decision, it is equally the duty of the staff member to ensure that he/she follows the legal requirements for the filing of an application before the Tribunal.

9. It is indeed the staff member's responsibility to ensure that he/she is aware of the applicable procedure in the context of the administration of justice at the United Nations³.

Conclusion

10. As the Applicant has failed to comply with the mandatory requirement of submitting a request to the Management Evaluation Unit before filing her Application with the Registry of the Tribunal, the Application is dismissed in its entirety.

¹ 2014-UNAT-481.

² At para. 48.

³ *Jennings* 2011-UNAT-184, at para. 26. See also *Christensen* 2012-UNAT-218, at para. 39.

Case No. UNDT/NBI/2015/086

Judgment No. UNDT/2015/072

(Signed)

Judge Vinod Boolell

Dated this 11th day of August 2015

Entered in the Register on this 11th day of August 2015

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi