



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2023/038

Judgment No.: UNDT/2023/025

Date: 28 April 2023

Original: English

Before: Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar: Abena Kwakye-Berko

ASLAM

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:
Manuel Calzada

Counsel for the Respondent:
AS/ALD/OHR, UN Secretariat

Introduction

1. The Applicant is a former staff member of the United Nations – African Union Hybrid Operation in Darfur (“UNAMID”). He filed an application on 25 April 2023 to contest the Secretary-General’s implied decision not to respond to his complaint of negligence, gross negligence, and a breach of a duty of care.

Considerations

2. The Tribunal finds that this application is not receivable for the reasons outlined below.

3. The Applicant failed to identify an administrative decision within the meaning of art 2.1(a) of the Tribunal’s Statute. In his application, the Applicant describes a series of acts or omissions of the Organization, spanning a period of 27 years, without identifying a contested decision. In the absence of an administrative decision, the Tribunal cannot assume jurisdiction over a matter.

4. The Applicant failed to comply with staff rule 11.2(a), which makes management evaluation a pre-requisite for staff wishing to contest decisions excluded by staff rule 11.2(b). While the Applicant submits that he submitted a management evaluation request (“MER”) to the Management Evaluation Unit (“MEU”) on 14 October 2022, the Tribunal notes that the decision contested in that MER related solely, and specifically, to the Advisory Board on Compensation Claims’ (“ABCC”) decision of 15 August 2022 rejecting his claim for compensation. The Applicant made no reference in this MER to the decision he is contesting in the current application. Since the Applicant did not submit his claim for negligence/gross negligence for management evaluation, the Tribunal cannot entertain his application.

5. Further, even if the Tribunal were to undertake a tortured interpretation - which it is not prepared to do, given that the Applicant is represented by counsel - that the MER and the present grievance pertain to the same set of events, the application would be dismissed because it fails to comply with the time limits set out in art. 8.1(d)(1)(a)

of the Tribunal's Statute. The Applicant submits that he received the MEU response on 5 January 2023, which means his application should have been filed no later than 5 April to meet the 90-day deadline. He filed his application on 25 April 2023, which is 20 days after the deadline.

JUDGMENT

6. The application is dismissed.

(Signed)
Judge Agnieszka Klonowiecka-Milart

Dated this 28th day of April 2023

Entered in the Register on this 28th day of April 2023

(Signed)
Abena Kwakye-Berko, Registrar, Nairobi