



Before: Judge Margaret Tibulya

Registry: Geneva

Registrar: René M. Vargas M.

YU

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Self-represented

Counsel for Respondent:

Adrien Meubus, HRLU, UNOG

Introduction

1. The Applicant, a former P-4 Legal Officer at the United Nations Conference on Trade and Development (“UNCTAD”), Geneva, under a temporary appointment, contests the decision not to reappoint her.

Facts

2. The Applicant’s temporary appointment expired on 23 August 2022, when she reached the maximum temporary appointment duration of 729 days and separated from the Organization.

3. On 6 October 2022, the Head of Competition and Consumer Policies Branch, UNCTAD, informed the Applicant that the Organization was still waiting for the last disbursement from the donor to proceed with planned activities and temporary appointments and that, as a result, the available funds did not allow for her reappointment under a temporary appointment.

4. On 19 October 2022, the Applicant requested management evaluation of what she characterized as a “non-renewal decision”.

5. By letter dated 2 December 2022, the Applicant was notified of the outcome of her request for management evaluation, which was to uphold the contested decision.

6. On 3 March 2023, the Applicant filed the instant application, which was completed on 27 March 2023.

7. On 18 April 2023, the Respondent filed a motion to have receivability determined as a preliminary matter, and a motion to strike from the record confidential materials of discussions with the Ombudsman.

8. On 19 April 2023, the Tribunal requested the Applicant to comment *inter alia* on the receivability issue raised by the Respondent, providing evidence of the date

and time on which she received the outcome of her 19 October 2022 management evaluation request.

9. On 25 April 2023, the Applicant submitted her above-requested comments.

10. On 27 April 2023, the Tribunal instructed the Respondent to file his observations on the Applicant's 25 April 2023 comments, which he did on 1 May 2023.

Consideration

Receivability of the application

11. The Respondent argues that the application is not receivable *ratione temporis* because the Applicant failed to file the application within 90 days of receipt of the outcome of her request for management evaluation.

12. The documents on record show that the Applicant received the management evaluation outcome on Friday, 2 December 2022 at 7.42 p.m. Geneva time, and filed her application on Friday, 3 March 2023 at 0.58 a.m. Geneva time.

13. Under art.8.1(d)(i)(a) of the Tribunal's Statute and art. 7.1(a) of the Tribunal's Rules of Procedure ("ROP"), an application before the Dispute Tribunal shall be filed within 90 calendar days of the receipt of the management evaluation outcome, not the date at which a staff member acknowledged its receipt (*Hoyce Temu* 2021-UNAT-1171, para.33).

14. Having received the management evaluation response on 2 December 2022, the Applicant should have filed her application at the latest by 2 March 2023.

15. The Applicant argues that she did in fact file her application on 2 March 2023 considering different time zones. She maintains that her application was filed on 2 March 2023 at 11.57 p.m. London time, where she was then located, the equivalent of 6.57 p.m. New York time, where the Respondent was.

16. The Tribunal however considers that statutory time limits are calculated in the time zone of the Tribunal's seat having geographical jurisdiction over the matter, not according to the location of the Applicant or the Respondent.

17. It is an established principle that time limits are to be strictly enforced, and that lateness even by several minutes, several hours, or several days is irrelevant (*Temu* UNDT/2020/172, para.12).

18. It follows that the application is time-barred and not receivable *ratione temporis*.

Motion to strike from the record privileged and confidential materials of discussions with the Ombudsman

19. In her application, the Applicant made references to her discussions with the Office of the Ombudsman and outcomes of those discussions to allege some inconsistencies in the account of her first reporting officer based.

20. Art. 15.7 of the Tribunal's ROP provides thus;

[A]ll documents prepared for and oral statements made during any informal conflict-resolution process or mediation are absolutely privileged and confidential and shall never be disclosed to the Dispute Tribunal. No mention shall be made of any mediation efforts in documents or written pleadings submitted to the Dispute Tribunal or in any oral arguments made before the Dispute Tribunal.

21. It follows that all materials provided or referenced by the Applicant, which bare privileged and confidential information regarding the Applicant's engagement with the Office of the Ombudsman and the outcome of those discussions shall be stricken from the record.

Conclusion

22. In view of the foregoing, the Tribunal DECIDES to:

- a. Grant the Respondent's motion to strike from the record privileged and confidential materials of discussions with the Ombudsman; and

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b. Dismiss the application as not receivable.

(Signed)

Judge Margaret Tibulya

Dated this 23rd day of May 2023

Entered in the Register on this 23rd day of May 2023

(Signed)

René M. Vargas M., Registrar, Geneva