



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2023/039

Order No.: 124 (NY/2023)

Date: 2 November 2023

Original: English

Before: Judge Joelle Adda

Registry: New York

Registrar: Isaac Endeley

HANNINA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

**ON AN APPLICATION FOR
SUSPENSION OF ACTION**

Counsel for Applicant:

Manuel Calzada

Counsel for Respondent:

Halil Göksan, AS/ALD/OHR, UN Secretariat

Introduction

1. On 30 October 2023, the Applicant, Chief of Mission Support (“CMS”), United Nations Support Mission in Libya (“UNSMIL”), filed an application for suspension of UNSMIL’s decision to advertise a Temporary Job Opening (“TJO”) for the post of CMS from 27 October to 2 November 2023 (the “contested decision”).

2. On 1 November 2023, upon the order of the Tribunal, the Respondent filed his reply stating that, *inter alia*, the application is not receivable *ratione materiae* because the Applicant does not seek the suspension of a reviewable administrative decision. The Respondent argues that the TJO has no adverse effect on the Applicant’s terms and conditions of employment.

Factual background

3. On 22 April 2022, the Office of Internal Oversight Services (“OIOS”) received a complaint from a former staff member with UNSMIL implicating the Applicant in prohibited conduct.

4. By email dated 20 April 2023, the Chief Human Resources Officer transmitted to the Applicant the decision to place her on Administrative Leave with Pay (“ALWP”).

5. On 13 October 2023, the Applicant’s ALWP was extended for another three months until 18 January 2024.

6. On 27 October 2023, UNSMIL advertised a TJO for the position of CMS with an application period of 27 October to 2 November 2023. The TJO states that the post is temporarily available until 18 January 2024.

7. On 30 October 2023, the Applicant filed a request for management evaluation and the present application for suspension of action.

Consideration

Receivability of the application for suspension of action

8. Under art. 2.2 of the Dispute 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. The Dispute Tribunal can suspend the contested decision only if all three requirements have been met.

9. In the present case, the Applicant is seeking suspension of the decision to advertise a TJO for the post of CMS from 27 October to 2 November 2023. The Applicant states that the contested decision is prejudicial to her as it will cause her “reputational loss, negative perception among staff”, and that her “career prospects will be seriously affected”.

10. The Tribunal finds that the present application is not receivable as the contested decision to advertise a TJO is not an administrative decision subject to judicial review. Under art. 2(1)(a) of the Dispute Tribunal’s Statute, an applicant may only challenge an administrative decision alleged to be in non-compliance with her terms and conditions of employment. As held by the Appeals Tribunal in *Lee* 2014-UNAT-481, the key characteristic of an administrative decision subject to judicial review is that the decision must produce direct legal consequences affecting a staff member’s terms and conditions of appointment.

11. In the circumstances and on the papers before it, the Tribunal is unable to conclude that the contested decision will impact the Applicant’s terms of employment. The Tribunal notes that the application fails to substantiate how the TJO adversely affects the Applicant’s terms and conditions of employment. The Tribunal notes in particular that the period of the TJO coincides with the Applicant’s absence from

UNSMIL and the end of the Applicant's ALWP, i.e., 18 January 2024. The TJO would therefore have no adverse effect on the Applicant's terms and conditions of employment.

12. Since the application is not receivable, the Tribunal does not have the jurisdiction to review the elements of *prima facie* unlawfulness, urgency and irreparable harm.

Conclusion

13. In light of the foregoing, the present application for suspension of action is rejected as not receivable.

(Signed)

Judge Joelle Adda

Dated this 2nd day of November 2023

Entered in the Register on this 2nd day of November 2023

(Signed)

Isaac Endeley, Registrar, New York