

Before: Judge Vinod Boolell

Registry: Nairobi

Registrar: Jean-Pelé Fomété

ABASSA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

Introduction

1. The Applicant is a staff member of the United Nations Economic Commission for Africa (UNECA), working as an Agricultural Advisor in the Food Security and Sustainability Development Department (FSSDD) in Addis Ababa, Ethiopia.
2. The Applicant is challenging the decision not to select him for the position of Chief, Agricultural Production Systems Section (APSS), FSSDD/UNECA, alleging that he was not notified of the contested decision.

Facts

3. By correspondences dated 6, 7, 25 and 27 October and 2 November 2010 to the administration, the Applicant stated that he was not selected for the post of Chief of APSS. The Applicant also asserts that on 5 May 2010¹, he noticed Mr. Adama Coulibaly (Mr. Coulibaly), an external fellow, acting as Chief of APSS.
4. On 27 October 2010, the Applicant requested a management evaluation. On 15 December 2010, the Management Evaluation Unit (MEU) responded to the Applicant, stating that his request was not receivable because it was not sent within sixty days from the date on which the Applicant received notification of the administrative decision.
5. On 11 March 2011, on the date that his Application was due, the Applicant filed for an Extension of Time to File an Application, stating that he was seeking to mediate his claim with the Office of the Ombudsman.
6. On 18 March 2011, the Tribunal issued Order No. 029 (NBI/2011) granting the

21. The Respondent states that the Application was time barred because instead of the Applicant filing his Application on 15 April 2011, pursuant to Order No. 29 (NBI/2011), the Applicant informally corresponded with the Tribunal, seeking an extension of time by stating that the mediation process was not completed.

22.. The Respondent states that granting *ex- parte* requests leads to prejudicing the opposing party and should not be granted absent exceptional circumstances.⁵

23. The Respondent states further that the *ex-parte* correspondence between the Registry and the Applicant during the period of 14 April until 2 December 2011 does not communicate any determination to extend the deadline of 15 April 2011 in which to file the Application.⁶

24. The Respondent goes on to state that although the Applicant communicated with the Tribunal on 2 December 2011, informing it that informal resolutions provided no results and he was ready to submit his Application, the Applicant did not inform the Tribunal as well that informal discussions between himself and the administration ended on 22 July 2011.⁷

25. The Respondent contends that there was no mediation, other than discussions between the Applicant and the Ombudsman's office to ini and t n[t

Whether the Application was timely filed

37. Now that the Tribunal has found that the management evaluation is receivable, next is the issue of whether the Application itself is timely filed and therefore receivable.

38. The Respondent's contention is that this Application is not receivable because the Applicant was granted an extension until 15 April 2011 to file his Application, yet he filed it on 2 March 2012, without following the Tribunal's Rules of Procedure in seeking additional extensions to submit the Application.

39. The Applicant sought an extension of time to file his Application as he wanted to first mediate his claim with the Office of the Ombudsman. He therefore filed a Motion to Extend Time to File Application on 11 March 2011, the date on which the Application was due.

40. The Tribunal granted the Applicant's motion and gave him until 15 April 2011 to file the Application. However, on 14 April 2011, the Applicant wrote an email to the Tribunal seeking more time before filing his Application as the mediation was still underway.

41. The Tribunal did acknowledge receipt of the Applicant's email and informed him that it would respond to him. On 15 May 2011, the Tribunal sent an email to the Applicant seeking to clarify whether he still needed the extension of time to file his Application. The Applicant never responded to this email.

42. Pursuant to staff rule 11.1(c), "the conduct of informal resolution by the Office of the Ombudsman, including mediation, may result in the extension of the deadlines applicable to management evaluation and to the filing of an application with the Union 34.6e to N(ti)-3(on.)-10(t)-Disp

process took place and when it became futile. The Respondent informed the Tribunal that he was not aware of any on-going mediation process. It is not for the Tribunal to probe further into that statement. However, the Tribunal wants to emphasize that given the strict guidelines for filing of Applications provided for in the Statute, and bearing in mind that mediation

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