

Introduction

1. The Applicant is the Director, Political Affairs and Mediation in the Department of Peacekeeping Operations and is based in Mogadishu, Somalia. In her Application filed on 6 May 2014, she contests the decision to place a reprimand in her personnel file. The events giving rise to the reprimand occurred when the Applicant served as Democratic Governance Practice Leader, Regional Bureau for Europe and the Commonwealth of Independent States (RBEC), United Nations Development Programme (UNDP).

2. The Respondent filed a Reply on 5 June 2014 in which it is asserted that the Application is without merit and is not (TJ ET Q5(m)-10(e)-393)-112(w)e

8. In the email, the Applicant was informed that both Mr. Keuleers and Mr. Adam were aware of the twitter message that she had posted on 7 September 2013. It cited that:

Response on a public internet platform is very unfortunate; it lacks professional judgment and seriously questions your ability to continue representing the organisation at a professional level. As stipulated in the UN Staff Rules and Regulations, as international civil servants, we do not criticise senior managers' decisions publicly and certainly do not launch unfounded statements that the organisation would withdraw its governance support to one region...

It concluded that:

Given the seriousness of this incident, we have decided, in consultation with senior management in the organisation to... Communicate to you this note that will be recorded in your personnel file, indicating the corporate disapproval of the statements you have made publicly, while acting in a UNDP Pol.ci

respond to requests for management evaluation responded to the Applicant's request and informed her that her request was time-barred and not receivable.

Respondent's submission on receivability

14. The Respondent submits that the Application is time-barred and therefore not receivable.

15. In the present case, the Applicant failed to file a request for management evaluation within the 60 day deadline set forth by staff rule 11.2(6). Since the Applicant received the Note to File on 11 September 2013, the 60 day deadline for the Applicant to file her request for management evaluation started to run on 12 September 2013 and she should have filed it by 11 November 2013. However, the Applicant only filed her request for management evaluation on 26 February 2014.

16. The Applicant contends that the Note to File of 11 September 2013 was an initial email notification that a written reprimand would be placed in her personnel file and that a decision in that regard would be taken only after she sent an official reply. On the contrary, the Note to File clearly stated that it would be recorded in her personal file. The Note to File contained all the facts required for the Applicant to file a request for management evaluation and it was her duty to pursue her cause of action promptly.

17. The email of 25 February 2014 from the HR Advisor did not constitute a new administrative decision and is not subject to appeal. The sole administrative decision that the Applicant could have impugned is [(T)J ET Q q BT o237] at t

28. The course of action embarked on by the Applicant to have the matter resolved informally before resorting to the formal process was justifiable in the circumstances given the requirements of ST/AI/292. Paragraph 2 of ST/AI/292 stipulates that:

Adverse material shall mean any correspondence, memorandum, report, note or other paper that reflects adversely on the character, reputation, conduct or performance of a staff member. *As a matter of principle, such material may not be included in the personnel file unless it has been shown to the staff member concerned and the staff member is thereby given an opportunity to make comments thereon.* It shall be handled and filed in accordance with the procedures set out below, depending upon its source. (Emphasis added).

29. The Tribunal finds that time began to run from 26 February 2014 for the Applicant to request for a management evaluation. She filed the management evaluation request on 26 February 2014, well within the deadline.

JUDGMENT

30. In view of the foregoing, the Tribunal decides that this Application is receivable.

(Signed)

Judge Nkemdilim Izuako

Dated this 1st day of February 2015

Entered in the Register on this 1st day of February 2015

(Signed)

Abena KwakyeBerko, Registrar, Nairobi