



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2014/031

Judgment No.: UNDT/2015/015

Date: 11 February 2015

Original: English

President: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

WONDIMU

v.

SECRETARY-GENERAL

Introduction

1. At the time of the contested decision, the Applicant was a staff member of the United Nations High Commissioner for Refugees (UNHCR) in Juba, South Sudan. In his Application filed on 5 May 2014, he contests the decision to remove him from the post of Deputy Representative, UNHCR, South Sudan and the attendant decision to re-advertise his post.

2. The Respondent filed a Reply on 5 June 2014 in which it is asserted that the Application is not receivable.

Procedure

3. On 6 June 2014, the Applicant was directed to file his submissions in response to the issue of receivability by 13 June 2014.

4. The Applicant filed the said submissions on 13 June 2014.

Facts

5. The Applicant is a long-time staff member of UNHCR, having been employed by the Office since 1984.

6. By a memorandum dated 13 January 2014 and sent under

8. On 28 January 2014, the Applicant filed a management evaluation request related to the PAPS letter of 23 January 2014 in which the Applicant stated that he

duty station until further reassignment. The same applies to the Applicant's subsequent submission to the Deputy High Commissioner of 30 January 2014.

Applicant's submissions

16. Contrary to the assertions of UNHCR in its response to the Applicant's request for management evaluation and in its Reply to the Application for Suspension of Action, in the Applicant's request for management evaluation, dated 30 January 2014, he specifically requested review of a decision that had direct legal consequences on him.

17. While in his request(a)-3(n)20(y)31()2(th)31(ea12 Tf1 0981 0 0 1 119.04 582 Tm [(S)-19(u)-11(s)

articulate his request with as much precision as professional legal counsel would be expected to do. Nonetheless, even if the Applicant was not as precise as he could have been, the decision that he was contesting was clear – it was the decision to re-advertise his post and administrative formalities related to his departure that arose from this decision.

21. In his Reply, the Respondent asserted that eved270

25. In his request for management evaluation dated 30 January 2014, the Applicant had written as follows:

I am requesting a Management Evaluation of an instruction which was communicated to me as Confidential Memo RET: PAPS/2014/00366 [...] informing me of the Director of DHRM, Karen Farkas', decision readvertise (sic) the post I am encumbering and further instructing me to leave my duty station until further re-assignment....

Therefore, the remedy I request is the immediate withdrawal of the instruction contained in Confidential Memo RET: PAPS/2014/00366 [...] and that I accordingly continue encumbering my post to which I am appointed by the High Commissioner consistent with UN Staff Rules.

26. Having carefully reviewed the contents of the request for management evaluation letter dated 30 January 2014 and the present Application, the Tribunal is satisfied that the Applicant has satisfied the requirements of art. 8.1(c) of the Dispute Tribunal's Statute. Whilst his request may not have been drafted in the most articulate legal language, the substance conveyed leaves no doubt, the Applicant did not want to be removed from his post and was not happy that it had been readvertised. The Respondent's objections on the grounds of receivability have no merit.

JUDGMENT

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

(Signed)

Judge Nkemdilim Izuako

Dated this 11th day of February 2015

Entered in the Register on this 11th day of February 2015

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi