UNITED NATIONS DISPUTE TRIBUNAL	Case No.:	UNDT/NBI/2017/134
	Judgment No.:	UNDT/2018/007
	Date:	22 January 2018
	Original:	English

Judge Agnieszka Klonowiecka-Milart

Registry: Nairobi

Registrar:

Before:

Abena Kwakye-Berko

MULIPI

v.

SECRETARY-GENERAL OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant: Self-represented

Counsel for the Respondent: Thomas Jacob, UNDP

Introduction

1. The Applicant is a former staff member of the Office for the Coordination of Humanitarian Affairs (OCHA) in the Democratic Republic of the Congo (DRC).

\$SSOLFDQW¶V 6XEPLVVLRQV

15. 7KH 81'3 SROLF\ RQ ³\$JUHHG 6HSDUDWLRQ \$UUDQJHPI applied to the Applicant considering that his post was abolished as a consequence of a restructuring exercise 7KLV SROLF\ SURYLGHV WKDW ³DJUHHG VH be granted even in cases of non-renewal of contract of eligible long serving fixedterm 100-series staff members FRQYHUWHG LQWR)7\$ RQ -XO\

16. During a meeting that took place in March 2017 with all staff to discuss the restructuring exercise, the Organization gave reasonable assurances to the staff affected by this exercise concerning the payment of termination indemnities which were due to be c

Case No. UNDT/NBI/2017/134 Judgment No.: UNDT/2018/007

WKDW WKH FRQWHVWHG GHFLVLRQ ZDV WDNHQ RQ -XQH
limit by which the Applicant was required to submit his request for management
evaluation, H[SLUHG RQ \$XJXVW 7KHUHIRUH WKH \$SSC
management evaluation filed on 20 August 2017 is time-barred.

20. 7KH 2UJDQL]DWLRQ¶V UHVSRQVH RI 2FWREHU W for management evaluation did not waive the statutory requirement regarding the time-limit for requesting management evaluation. Rather, the response to the \$SSOLFDQW¶V UHTXHVW VROHO\ VHUYHG WKH SXUSRVH R 2+5¶V 6HSWHPEHU QRWLILFDWLRQ WKDW LW KDG VH WKH \$SSOLFDQW¶V UHTXHVW IRU PDQDJHPHQW HYDOXDW

21. Since t K H \$ S S O L F D Q W ¶ V U H T X H V W I R U P D Q D J H P H Q W H Y I time, there is no need for the Tribunal to consider the merits of the present application. The Respondent requests the Tribunal to dismiss this matter in its

entitlements. As such, based on the facts before it, the Tribunal has no grounds to accept that the payslip from 19 May would have informed the Applicant that termination indemnity was denied to him. The Applicant indicates that the contested decision was taken on 7 June 2017 when OCHA, DRC staff members were informed during a meeting with the Head of Office that separating staff members would not receive termination indemnities. While this might not be the moment when the decision was taken, the Tribunal accepts that only this information allowed the Applicant to comprehend the position of the administration on the matter concerned.

28. The above considerations, however, have no bearing on the receivability of the present application. Taking the date of 7 June 2017 as a trigger for procedural deadlines, in accordance with the time-limits provided by staff rule 11.2(c), the Applicant had until 6 August 2017 to submit his request for management HYDOXDWLRQ &RQVHTXHQWO\ WKH \$SSOLFDQW¶V UHTXH barred and his application before the Tribunal is not receivable ratione materiae

29. The finding that the present application is not receivable is without prejudice to $W \times H SSOLFDQW$ $V U \subseteq De \times VO R 7$ Ee $A \oplus DO \oplus HQJH W \times H$ relation to the reconsideration of his claim for payment of termination indemnities, by properly following procedures pursuant to staff rule 11.2 (c).

Conclusion

30. In view of the foregoing, the present application is dismissed.

(Signed)