



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2019021
Judgment No.: UNDT/2020206
Date: 9 December 2020
Original: English

Before: Judge Alexander W. Hunter, Jr.

Registry: New York

Registrar: Nerea Suero Fontecha

ARVIZU TREVINO

v.

SECRETARY GENERAL
OF THE UNITED NATIONS

JUDGMENT

ON RECEIVABILITY

Counsel for Applicant:
Self-represented

Counsel for Respondent:
Alan Gutman, ALD/OHR, UN Secretariat

Introduction

1. On 7 April 2019, the Applicant, the former Chief Executive Officer of the United Nations Joint Staff Pension Fund (CEO/UNJSPF) filed an application wherein he describes the contested decision at the relevant paragraph “V. Details of the Contested Decision” as the “decision not to set the record straight and clear [his] name and refusal to provide a safe working environment”.
2. On 28 October 2020, by Order No. 166Y/2020), the Tribunal ordered that, upon review of the parties’ submissions, receivability can be dealt with on the submitted papers as a preliminary issue.
3. For the reasons stated below, the Tribunal finds that the application is not receivable *ratione materiae*.

Consideration

Receivability ratione materiae

4. In his application, the Applicant articulates the contested decision as the “decision not to set the record straight and clear [his] name and refusal to provide a safe working environment”. By way of further background, the Applicant submits that by letter of 3 April 2015, the Applicant reported alleged prohibited conduct by several staff members which included “making false claims and accusations against [the Applicant] in public fora”. The Applicant requested that the Organization “take hiatits that

Applicant complains that OIG, however, did not issue corresponding public reports which would have helped him clear his reputation. The Applicant states that harassment against him continued for more than two years without any institutional protection from the Administration and impacted his health. On 14 August 2017, the Applicant was placed on long-term sick leave and on 7 January 2019, the Applicant was terminated from service.

5. In view of the above, it appears that the Applicant seeks to challenge the alleged failure of the Administration to take action in response to comments and correspondence made by several staff representatives in relation to the Applicant's conduct in his role as CEO/UNJSPF.

6. The Respondent submits that the application is not receivable as the Applicant has failed to identify a specific administrative decision taken or omitted that had a direct adverse impact on the Applicant's terms of appointment or contract of employment. The Respondent further submits that the Applicant has failed to submit a timely request for management evaluation. The Tribunal will review these challenges in turn.

a. The Applicant failed to identify a specific administrative decision

7. The Respondent argues that the Applicant has failed to identify any specific administrative decision within the meaning of the Staff Regulations and Rules, the Tribunal's Statute, or the jurisprudence of the Tribunal that has had an adverse impact on the terms and conditions of his appointment. In this regard, the Respondent states that staff representatives have a right to comment on matters of interest to their constituents without the interference of the Secretaries General. The Applicant as CEO/UNJSPF also had a plethora of official communication channels to effectively respond to the comments of the staff representatives.

b. The Applicant has failed to submit a timely request for management evaluation

12. The Respondent submits that the Applicant did not request management evaluation

15. In light of the above, the Tribunal finds that the Applicant did not submit a request for management evaluation of the decisions or implied decisions identified in the application within the statutory ~~60~~ day deadline. Pursuant to art 8.3 of its Statute, the Dispute Tribunal is not competent to waive the deadline for requesting management evaluation of the contested decision. The application is therefore not receivable *ratione materiae*.

Conclusion

16. It is the Judgment of the Tribunal that this application is not receivable. The application is rejected.

(Signed)

Judge Alexander W. Hunter, Jr.

Dated this 9th day of December 2020

Entered in the Register on this 9th day of December 2020

(Signed)

Nerea Suero Fontecha, Registrar, New York