



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2010/052
(UNAT 1696)
Judgment No.: UNDT/2010/198
Date: 19 November 2010
English
Original: French

Before: Judge Jean-François Cousin

Registry: Geneva

Registrar: Víctor Rodríguez

ZIA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

Counsel for Applicant:

Duke Danquah, OSLA

Counsel for Respondent:

Stephen Margetts, ALS/OHRM, United Nations Secretariat

Applicant's professional conduct. She added that, knowing that relations between the Applicant and the operational partners of UNMIK were strained, she could not jeopardise operational efficiency in the handover of UNMIK's responsibilities for the municipality to OSCE by appointing the Applicant as UNMIK Municipal Representative to the Municipal Hub of Gjilan/Gnjilane. Consequently, she had decided to redeploy him to another unit.

7. By memorandum also dated 28 June 2006, the Executive Office of the Division of Civil Administration informed the staff of the Division, including the

13. In its report adopted in early April 2008, the JAB concluded that the Applicant had failed to comply with the two-month time limit laid down in staff rule 111.2(a) in which to request the Secretary-General to review the contested decision, and found that no exceptional circumstances existed to justify a waiver of the time limit. It therefore rejected the appeal as time-barred.

14.

21. On 9 November 2010, Counsel for the Applicant submitted the above-mentioned letter to the Tribunal together with additional comments.

Parties' contentions

(f) An appeal shall not be receivable unless the time limits specified in paragraph (a) above have been met or have been waived, in exceptional circumstances, by the panel constituted for the appeal.

26. It follows from the above provisions that, in sending his request for review to the Secretary-General on 4 October 2006, the Applicant, who had been notified of the contested decision orally on 19 June 2006 and in writing on 24 June 2006, failed to comply with the two-month time limit laid down in staff rule 111.2(a) cited above. That request was therefore time-barred.

27. The Applicant nonetheless contends that staff rule 111.2(f), cited above,

the Tribunal, and that this does not in any case constitute exceptional circumstances (see for example judgments No. 1211, *Muigai* (2004), and 1386 (2008) of the former UN Administrative Tribunal; and judgment UNDT/2010/102, *Abu-Hawaila*, by this Tribunal).

31. Besides, contrary to what the Applicant maintains, the Tribunal finds that former staff rule 111.2 does not provide, in any way, that referral to the Ombudsman has the effect of suspending the two-month time limit laid down in subparagraph a) of that rule. Even supposing the Applicant had intended to refer to the provisions applicable to staff of the United Nations Development Programme, this argument is unavailing where he is concerned.

32. The Tribunal considers, therefore, that the Applicant has failed to establish that he was prevented by exceptional circumstances from submitting his request