

Introduction

1. The Applicant is

and could not be reopened. On 15 October 2015, this information was conveyed to the Applicant through an email exchange with the Senior Finance Officer.

10. On 4 November 2015, the Applicant received from DHRM an email containing the content and reasons for the unfavorable decision.

11. In a memorandum dated 21 December 2015, Ms. Warsame reiterated her recommendation to pay the Applicant SPA. DHRM maintained its earlier decision, which was notified to the Applicant on 20 January 2016.

12. On 22 January 2016, the Applicant submitted a management evaluation request challenging the administrative decision denying him SPA.

13. On 7 July 2016, the UNHCR Deputy High Commissioner responded to the

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barred. The Deputy High Commissioner observed that the Applicant was notified of the decision on 4 November 2015 and was therefore required to submit a

c.

filed within the prescribed time limit, his application on the merits would not have been receivable.

d. The response period for the management evaluation submitted by the Applicant expired on 7 March 2016. Therefore, the Applicant was required to file his application on the merits before this Tribunal within 90 days or no later than 6 June 2016. Instead, the Applicant filed his application on 23 August 2016.

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the de
file a UNDT application.

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had been timely, his application would nevertheless not have been receivable.

missions on receivability

16. The summarized hereunder:

a. The Respondent is incorrect when he states that he received the unfavorable decision on 4 November 2015. The Applicant submits that he received the contested decision on 15 October 2015 by email from Mr. Mohamed Qureshi, Senior Finance Officer.

b. On 15 October 2015, he wrote to Mr. Qureshi expressing his frustrations and giving the facts and justification for his SPA and his intention to request management evaluation. On the same day, Ms.

c. On 21 December 2015, Ms. Warsame addressed a memorandum to PAPS/DHRM requesting for a review of his case.

d. On 20 January 2016, the Applicant received an email communication from Mr. Qureshi informing him that his request had been denied. It was on this basis that he requested for management evaluation on 22 January 2016.

e. The submission is within the timeline unless the High Commissioner does not recognize the UNHCR Uganda Country's intervention.

f. The issue of whether the UNDT has authority to suspend or waive the deadlines for management evaluation does not arise in this case since he is within the deadline.

g. The correct date for the expiry of the deadline for management evaluation was 19 March 2016. The correct date for bringing an application before this Tribunal was within 90 days after his receipt of the management evaluation on 8 July 2016.

Considerations

17. The sole legal issue arising for consideration at this stage is un1 0 0 1 426.07 324.41 Tm[(is)

the date on which the staff member received notification of the administrative decision to be contested.

20. Mirroring UNDT Statute art. 8.1(i) b., staff rule 11.2(d) stipulates that the Secretary- the outcome of the management evaluation, shall be communicated in writing to the staff member within 30

October 2015

2016, he requested for management evaluation challenging the administrative decision denying him SPA (Application, Annex VI).²

25. The Applica

him to request for management evaluation runs only as of the receipt the decision of 20 January 2016. There is no factual or legal basis to support this view. Whereas it is unclear what was the exact content of the communication of 15 October 2015, the ambiguity as to whether the decision was fully communicated to him on 15 October or only on 4 November 2015 is irrelevant for the consideration of the case. The Tribunal finds that, at the latest, the email received by the Applicant on 4 November demonstrates all the *indicia* of an administrative decision capable of being the subject of management evaluation: it has been issued by a competent organ; it unequivocally resolves the matter at hand; it was communicated to the Applicant in writing and it contains the reasoning. Notably, as indicated above, i

27. As provided in staff rule 11.2(c), the deadline for requesting management evaluation may only be extended by the Secretary-General pending efforts for informal resolution conducted by the Office of the Ombudsman, under conditions specified by the Secretary-General, which is not the case here. request for management evaluation filed on 22 January 2016 was therefore outside the applicable time limits.

28. It falls to be noted that even if the Tribunal was to accept the argument that the Applicant received the contested decision on 20 January 2016, he would still be out of time for filing his application with the UNDT. In respect to the filing of an application before the UNDT, staff rule 11.4(a) requires that an application be filed within 90 calendar days from the date on which the staff member received the outcome of the management evaluation or from the date of expiration of the deadline specified under staff rule 11.2(d). In the present case, the deadline specified under staff rule 11.2(d) for the management evaluation would be 7 March 2016 (since 6 March 2016 was a Sunday). The Applicant would therefore be normally required to have filed his application with the UNDT no later than 6 June 2016.

29. The Applicant filed his application on 23 August 2016, 78 days after the deadline for seeking judicial review before the UNDT. The management evaluation was communicated to him on 7 July 2016. As such he does not benefit from the UNAT interpretation of art. 8.1 of the UNDT Statute in *Neault*.

30. The only authority the UNDT has to suspend or waive the filing time limits is set forth in art. 8.3 of the UNDT Statute, which, as held by UNAT in *Cooke* 2012-UNAT-275,

29. Mr. Cooke did not submit a prior written request for waiver, as required by Article 8(3) of the UNDT Statute. Under Article 8(3) of the UNDT Statute, t request for waiver is a prerequisite, or condition precedent, to the UNDT being competent to waive the filing deadline in Article 8(1).

The Applicant failed to make such a request in the present case.

