



Case No.: UNDT/GVA/2010/100

Order No.: 66 (GVA/2010)

Date: 9 August 2010

Facts

1. By letter dated 30 July 2010, the Executive Director, United Nations Population Fund (UNFPA), informed the applicant of the decision to dismiss her for misconduct, in relation to the charges of attempts to commit four acts of fraud

may order interim measures to provide temporary relief”, including the suspension of the implementation of the decision under review, “except in cases of appointment, promotion or termination”.

10. Therefore,

As a result of this configuration these two types of interim measures have to be clearly distinguished. Every application for interim measures has to be considered either under art. 13 UNnits0)

14. Having said that, the afore-mentioned provisions spell out a number of conditions and restrictions for the Tribunal to order the suspension of the contested decision on these grounds. In particular, both above-cited articles clearly exclude for that matter “cases of appointment, promotion or termination”.

15. In this connection, the decision impugned by the appellant concerns “termination”. As a matter of fact, provisional staff rule 9.6 (a) defines “Termination” as follows:

A termination within the meaning of the Staff Regulation and Staff Rules is a separation from service initiated by the Secretary-General. (Emphasis added)

16. In addition, staff regulation 9.3 provides that:

The Secretary-General may, giving the reasons therefor, terminate the appointment of a staff member ... for any of the following reasons:

... (iv) If the conduct of the staff member indicates that the staff member does not meet the highest standards of integrity required by Article 101, paragraph 3, of the Charter... (Emphasis added)

17. In the same vein, provisional staff rule 9.6 (c) further establishes:

The Secretary-General may, giving the reasons therefor, terminate the appointment of a staff member ... on any of the following grounds:

... (iv) Disciplinary reasons in accordance with staff rule 10.2 (a) (viii) and (ix)... (Emphasis added)

18. In view of the foregoing, the Tribunal cannot but declare irreceivable the present application for suspension of action.

19. The Tribunal decides not to grant leave for the applicant to present an addendum to this application, considering that the circumstance determining the irreceivability of same, i.e., the fact that it essentially concerns termination, may not possibly be changed by any new argument raised at this stage.

Decision

20. The application is hereby rejected.

(Signed)

Judge Thomas Laker

Dated this 9th day of August 2010

Entered in the Register on this 9th day of August 2010

(Signed)

Víctor Rodríguez, Registrar, UNDT, Geneva