

The Application and Procedural History

1. The Applicant is a Budget Officer at the Regional Service Centre (RSC) in Entebbe, Uganda. She serves at the P4 level on a fixed term appointment.
2. On 16 May 2014, the Applicant filed an application for suspension of action challenging the decision not to extend her fixed-term appointment. The Applicant submits that the decision was made by the Chief of the Regional Service Centre on 24 April 2014, and that she was informed on 5 May 2014. She sought management evaluation of the decision on 16 May 2014.
3. The Application was served on the Respondent on the day it was filed.
4. The Respondent filed his Reply to the Applic

15. The Applicant's employment and career prospects stand to be irreparably harmed if the impugned decision is not suspended.

The Respondent

16. The Respondent submits that the Application should be dismissed as it does not meet the requirements of the test for injunctive relief under art. 2.2 of the UNDT

21. The three statutory prereqf 0 0 0yut 0 0-22((pr)-7(c0 0r)-7(yn-2(o)-20(t)--16yi)17)n3()-130d(pr)5

28. In other words, the Respondent's exercise of its broad discretionary authority must not be "tainted by forms of abuse of power such as violation of the principle of good faith in dealing with staff, prejudice or arbitrariness, or other extraneous factors that may flaw his decision".²

29. While the burden is on the Applicant to show that the Respondent did not properly exercise his discretion, the Tribunal is not required at this stage to resolve any complex issues of disputed fact or law. All that is required is for a *prima facie* case to be made out by the Applicant to show that there is a triable issue here.³

30. There is ample jurisprudence regarding the grounds upon which a decision not to renew a fixed-term appointment may be found unlawful. In *Koumoin*, the Appeals Tribunal held that, in reviewing a decision not to renew an appointment, it examines "whether the discretion not to renew ... was validly exercised".⁴ Similarly, it has been held at first instance that:

[E]ven though the staff member does not have a right to the renewal of his or her contract that decision may not be taken for improper motives. The Dispute Tribunal is therefore required to consider whether the motives for the decision were proper.⁵

31. On the facts of the present case, the Applicant submits that she has a difficult relationship with the CRSC. She submits that she was asked to sign off on a document clearly outside of her scope of work and responsibilities, and that her

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38. Given the facts of this case, the Tribunal strongly believes that while the Management Evaluation Unit (MEU) carries out its review of the Applicant's request, the Parties should engage in meaningful consultations towards having this matter resolved. In the interest of efficient use of the Tribunal's resources and the expeditious conduct of these (and potentially future) proceedings, the Tribunal pursuant to articles 10.3 of the Statute and 15.1 of the Rules of Procedure, strongly urges the Parties in this matter to consult and deliberate, in good faith, on having this matter informally resolved.

39. A conducive and productive working relationship between the employer and an employee demands nothing less.

40. It, of course, remains open to the Applicant to have this matter litigated on the merits should the informal efforts to resolve the dispute be unsuccessful.

41. The Application for Suspension of Action is **GRANTED** pending management evaluation.

(signed)

Judge Vinod Boolell

Dated this 23rd day of May 2014

Entered in the Register on this 23rd day of May 2014

(signed)

Abena Kwakye-Berko, Registrar, Nairobi