UNITED NATIONS DISPUTE TRIBUNAL

The Application

1. The Applicant is a Budget Officer at the Regional Service Centre in Entebbe, Uganda (RSCE). She serves at the P4 level on a fixed term appointment.

2. On 24 September 2014, the Applicant filed her second Application for Suspension of Action. The Applicant contends that she has been subjected to "a series of actions which cumulatively amount to a decision to constructively dismiss her by depriving her of her functions." The "most recent decision" was made on 19 September 2014.

3. The Applicant sought management evaluation of the impugned decision on 23 September 2014.

4. The Respondent filed his Reply to the Application on 24 September 2014.

5. On the same day, the Tribunal issued Order No. 214 (NBI/2014) setting this matter down for hearing.

6.

ORDER

Receivability

8. The Tribunal has carefully considered the Parties' written and oral submissions in respect of the receivability of the present Application.

9. The Respondent's position that this Application is time barred because the Applicant did not challenge her "constructive dismissal" in her initial application (UNDT/NBI/2014/40) to the Tribunal is incorrect. Both the Management Evaluation request and the initial application for suspension of action make mention of her constructive dismissal.

10. It is entirely reasonable and proper for a staff member who is challenging her performance appraisal, and who has won an injunction against the decision to terminate her employment[1], to expect that the *status quo* is preserved so that she is able to continue performing the functions for which she was recruited.

11. The impugned decision of stripping the Applicant off her functions cannot be seen to have been fully or properly implemented so as to make it inadmissible before this court.

12. The Tribunal accordingly finds the Application receivable.

Merits

13. With regard to the tri-partite test which must be satisfied before an injunction can be properly granted, the Tribunal finds that the Applicant has made out a case showing the impugned decision to be *prima facie* unlawful and irreparably harmful to her and that there is urgency in this Application.

[1] Order No. 137 (NBI/2014).

14. The Tribunal, pursuant to art. 2 of the UNDT Statute and art. 13 of the Rules of Procedure, hereby ALLOWS the Application for Suspension of Action.

15. The Tribunal, using the powers conferred to it by art. 8.3 of the UNDT Statute and arts. 19 and 30 of the Rules of Procedure will issue its reasoned ruling on this Application in due course.

(signed)
Judge Vinod Boolell
Dated this 30th day of September 2014

Entered in the Register on this 30th day of September 2014

(signed)
Abena Kwakye-Berko, Registrar, Nairobi