



UNITED NATIONS

Introduction

1. The Applicant is a Team Assistant at the United Nations Interim Force in Lebanon (UNIFIL). She serves at the GS-4 level on a fixed term appointment.
2. On 17 September 2015, she filed an Application for Suspension of Action, pending management evaluation, seeking the suspension of her position to change her functional title from Team Assistant to Language Assistant without budget approval and to remove her from her post at the J1 Branch (Force Military Personnel) "under the verbal excuse that [her] post was abolished and no longer needed".
3. The Application was served on the Respondent on 21 September 2015.
4. The Respondent filed a Reply to the Application on 23 September 2015 in which it was asserted that the

Prima Facie Unlawfulness

20. The decision to remove her from the production of the magazine using fake and falsified reasons and moving her from her actual duties and place of work despite the fact that the Chief of her section was satisfied with her work and performance was unlawful. The Chief spoke with Ms. Frazer, Chief of Human Resources, to defend her case and explain the need for her to work in the branch as she is the only civilian who keeps the continuity of the branch as the military rotates.

21. Her Performance Appraisal for 2014-2015 is proof of her achievements and the great job she was doing.

22. She was framed and unlawfully accused of making mistakes by Mr. Bendinelli to cover the staff of the HoM&FC and to disgrace her before the HoM&FC. She was used as a scapegoat for the mistakes.

Urgency

23. The decision was taken very quickly and applied hastily and by short notice.

24. The decision maker took advantage of her absence from work on sick leave to relocate her without consulting her.

25. There is no proof about the abolishment of her post in the J1 Branch.

26. There is no approval or proof f2 244.32 Tm [(T)-7(h)9(e)-3(r)-8(e)17()-27(i)-20(s)26()4.96 T

to another office, she would be assigned to other functions in the LSU, effective 17 August 2015.

Receivability

37. The Application is not receivable because the Applicant does not contest an administrative decision that affects the terms of her appointment.

38. The UNIFIL Administration has taken no decision with direct legal consequences to the Applicant's appointment. Contrary to her allegations, the Applicant was not moved to the LSU. She has always been assigned to the LSU and encumbers a post within the LSU, although she served the CMPO Office, working on the *Litani* magazine. When the production of the magazine was moved to the Public Information Office, UNIFIL, valuing her experience and expertise, made an effort to retain her in the LSU, where the post she encumbers is located.

39. The Applicant continues to serve as a Team Assistant at the same grade and level and against the same post. The post she encumbers has not been abolished. She has presented no evidence to that effect. Contrary to the Applicant's contentions, her functional title has not been changed from Team Assistant to Language Assistant.

40. The UNIFIL Administration seeks to retain the Applicant in the LSU and to identify functions that would best use her skills and experiences to meet existing needs within the unit. The Applicant has not suffered any adverse consequences as result of this decision. The generic job profile for Team Assistant contains general responsibilities and duties that can be performed within the LSU. It does not specify that the Applicant must work on the *Litani* magazine.

41. There has been no administrative decision that has negatively affected the Applicant's appointment. The Dispute Tribunal, therefore, lacks jurisdiction and the Application should be rejected.

Prima facie unlawfulness

42. The evidence shows that the Applicant has always been assigned to the LSU and that both her functional title and the post she encumbers have remained the same. The Applicant has not identified any staff rule or regulation that the UNIFIL Administration has violated by deciding to reassign her to functions within the unit consistent with her job description. In light of the restructuring of the *Litani* magazine, the Applicant could not continue to perform functions which no longer exist in her office.

43. The Secretary General has broad discretion to reassign staff members to different functions, even if there has been no assignment to a new post. Staff regulation 1.2 (c) provides:

General rights and obligations

1.2(c) Staff members are subject to the authority of the Secretary General and to assignment by him or her to any of the activities or offices of the United Nations. In exercising this authority the Secretary General shall seek to ensure, having regard to the circumstances that all necessary safety and security arrangements are made for staff carrying out the responsibilities entrusted to them.

Urgency

44. The Applicant has not provided any evidence to prove that the requirement of particular urgency has been met.

Irreparable harm

45. The Applicant has not established that the contested decision would cause her irreparable damage. The Applicant maintains a contractual relationship with the Organization, which expires on 30 June 2016.

Considerations

46. The Respondent submits that the Applicant is not challenging an administrative decision within the meaning of art. 2.1(a) of the Tribunal's Statute and as such, the Application is not receivable.

47. The Respondent further submits ~~that~~ UNIFIL Administration has taken no decision with direct legal consequences to the Applicant's appointment.

48. Article 2.1(a) of the Statute of the Tribunal (UNDT Statute) provides that the Tribunal shall be competent to hear and pass judgment ~~on~~ ^{on} application filed by an individual against the Secretary

Conclusion

52. There is no merit in this Application. It is accordingly refused.

(Signed)

JudgeNkemdilim Izuako

Dated this30th day ofSeptember2015

Entered in the Register on this30th day of September 2015

(Signed)

Abena KwakyeBerko, Registrar, Nairobi