



Case NoJNDT/NBI/2015/105

Order No.323(NBI/201

Urgency

7. The Applicant considers the Application to be urgent because the selection process has adversely affected him by denying him full and fair consideration.

Irreparable harm

8. The Applicant submits that despite his superior performance, the actions and decisions in the selection processes adversely impacted him by denying him full and fair consideration for many posts and disqualified his candidacy. The decisions were influenced by prejudice as he has been subjected to a "two-year history of prejudice, which has, *inter alia*, deny my opportunity for advancement and this prejudicial treatment was imported into this selection process by management".

Respondent's submissions

Receivability

9. The Application is not receivable because the UNDT is not competent to hear and pass judgment on applications brought by UNRWA staff members. In the case of *Achkar* 2012-UNAT-267, the Appeals Tribunal upheld the Dispute Tribunal's judgment dismissing the appeal of an UNRWA staff member because UNRWA does not fall under the jurisdiction of the UNDT.

10. As an UNRWA staff member, the Applicant does not challenge an administrative decision as defined in 2.1(a) of the Statute.

11. The contested decision in this case had no direct legal consequences to the legal order or on the Applicant's terms of appointment. There is no legal obligation that exists between the Secretary General and the Applicant. The Applicant has no more rights to access the UNDT than an external applicant for a position with the

Deliberations and Order

Locus standi

17. On the question of the Applicant's *locus standi* or, in other words, the right of the Applicant to be heard on an application filed before the Dispute Tribunal the Tribunal recalls art. 3 of the UNDT Statute which provides that:

1. An application under article 2, paragraph 1, of the present statute may be filed by:

(a) Any staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

(b) Any former staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes;

(c) Any person making claims in the name of an incapacitated or deceased staff member of the United Nations, including the United Nations Secretariat or separately administered United Nations funds and programmes

18. The issue is whether the Applicant, though he is challenging a decision of the Secretariat, is a staff member within the meaning of art. 3 of the Statute of the Dispute Tribunal.

19. Article 101, paragraph 1, of the Charter of the United Nations reads:

The staff shall be appointed by the Secretary-General under

Entered in the Register on this 6th day of October 2015

(Signed)

Abena KwakyeBerko, Registrar, Nairobi