



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2018/040
Order No.: 045 (NBI/2018)
Date: 6 April 2018
Original: English

Before: Judge Nkemdilim Izuako

Registry: Nairobi

Registrar: Abena Kwakye-Berko

ROSS

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON A MOTION FOR
INTERIM MEASURES DURING
PROCEEDINGS**

Counsel for the Applicant:
Self-represented

Counsel for the Respondent:
Lance Bartholomeusz, UNHCR
Louis Lapicerella, UNHCR

Introduction

1. The Applicant is a former staff of the office of the United Nations High Commissioner for Refugees (UNHCR). He was separated from service on 31 March 2016.

Facts

2. In October 2016, the Applicant directed requests for information to the former Director of the Division of Human Resources Management (DHRM) at UNHCR. He inquired about his application for a Senior Legal Officer Position as well as his final emoluments.

3. By email dated 11 October 2016 to, *inter alia*, the Deputy Director of DHRM, the Senior Principal Secretary, DHRM, followed up on the Applicant's request. In her email, she noted that "[the former Director of DHRM] ha[d] moreover enquired if the name of the former staff member could be 'flagged' to

7. On 21 February 2018, the Applicant wrote to the current Director of DHRM to request the deletion of “records illegally entered into MSRP”.
8. On 27 February 2018, the current Director of DHRM replied to the Applicant indicating, *inter alia*, that the Respondent’s Principal Legal Adviser would reply to his query.
9. On 28 February 2018, the Respondent’s Principal Legal Adviser answered the Applicant by explaining the purpose of the “consult PER/EX” notation and noting the Agency’s view that there was no valid reason to accede to the Applicant’s request for deletion.
10. On 2 March 2018, the Applicant filed a request for management evaluation contesting the Respondent’s alleged decision to “insert adverse material into [his] online personnel file to hinder [him] from getting reemployed by UNHCR”.
11. On 9 March 2018, the Applicant filed an application for suspension of action pending management evaluation with the United Nations Dispute Tribunal (Tribunal).³
12. On 13 March 2018, the Respondent filed his response to the application. The Applicant filed a rejoinder on the same day.
13. By Order No. 032 (NBI/2018), dated 16 March 2018, the Tribunal granted the application for suspension of action.
14. The Applicant received a response to his request for management evaluation on 19 March 2018. On 28 and 29 March 2018, he filed a substantive application and a motion for interim measures pending proceedings, respectively, with the Tribunal challenging the decision to insert adverse material into his online personnel file.
15. The Respondent filed a response to the motion for interim measures on 4 April 2018. The Applicant filed a rejoinder the same day.

³ Registered as Case No. UNDT/NBI/2018/035.

Considerations

16. This Tribunal has previously held that a suspension of action order is akin to an interlocutory order of injunction in national jurisdictions. It is an interim order made with the purpose of providing an applicant temporary relief by maintaining the *status quo* between the parties to an application pending trial.⁴ In substance and effect, it is an emergency application that places tight time constraints on the Tribunal and its limited human resources and brings adjudication of pending applications to a standstill. Consequently, an application for suspension of action, whether under art. 2.2 of the UNDT Statute and art. 13 of UNDT Rules of Procedure or under art. 10.2 of the Statute or art. 14 of the Rules of Procedure, should not be filed lightly.

17. The Tribunal recalls that on 9 March 2018, the Applicant filed an application pursuant to art. 2.2 of the UNDT Statute and art. 13 of UNDT Rules of

business between the parties with regard to the language of the amended MSRP entry would be premature.

20. In other words, since an interim order has previously been made in this matter and the