



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2021/042
Order No.: 125 (NBI/2021)
Date: 22 June 2021
Original: English

Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

WATHANAFI

v.

Introduction

1. The Applicant is a P-3 Disarmament, Demobilization and Reintegration (“DDR”) Officer with the United Nations Stabilization Mission in the Democratic Republic of the Congo (“MONUSCO”) in Goma.
2. On 14 June 2021, she filed an application for suspension of action (“SOA”) seeking to suspend the decision to terminate her fixed-term appointment by 30 June 2021.
3. The Respondent filed his reply on 17 June 2021

6. On 2 April 2021, MONUSCO’s Officer-in-Charge (“OIC”) Human Resources Section, informed the Applicant that the anticipated approval of MONUSCO’s proposed budget would result in the abolishment of the post she encumbered through a “dry cut” and the non-renewal of her fixed-term appointment, expiring on 30 June 2021.³

7. On 26 April 2021, the Advisory Committee on Administrative and Budgetary Questions (“ACABQ”) recommended the approval of some parts of the Budget.⁴

8. On 18 May 2021, MONUSCO notified the Applicant of the non-renewal of her appointment beyond its expiration on 30 June 2021.⁵

9. On 1 June 2021, the Applicant submitted a management evaluation request concerning the contested decision.⁶

Parties’ submissions

The Applicant

Prima facie unlawfulness

10. The 2 April 2021 decision does not reflect the commitment of the communications made by the management before the ongoing reconfiguration of the Mission. On 4 April 2021, a message was sent to all staff informing about the organization of the Comparative Review Process (“CRP”) in coming weeks. On the same day, she received a notice of non-extension of her appointment before the CRP was conducted.

11. There was no communication to her that her post was subject to a “dry cut”. The transcripts of the Special Representative of the Secretary-General’s (“SRSG”)

³ Application, Annex 4.

⁴ Reply, para 7 and Annex R/4.

⁵ Application, Annex 7.

⁶ Application, Annex 1.

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28. The issues that are currently before the Tribunal are: (i) whether the Respondent's decision not to renew the Applicant's fixed-term appointment beyond 30 June 2019 is *prima facie* unlawful; (ii) whether the matter is urgent; and (iii) whether implementation of the separation decision will cause the Applicant irreparable damage.

Prima facie unlawfulness

29. The Applicant's assertion that her duty station (Goma) was not subject18()-dfo

Respondent's_ eh

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(Signed)

Judge Margaret Tibulya

Dated this 22nd day of June 2021

Entered in the Register on this 22nd day of June 2021

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi