

Introduction

1 The Applicant is a Special Political Adviser, working with the United Nations Assistance Mission for Iraq (“UNAMI”). He serves on a continuing appointment at the D 1 level.¹

2 On 7 April 2022, the Applicant filed an application for suspension of action before the United Nations Dispute Tribunal (“UNDT”) in Nairobi. He seeks suspension of the decisions which he describes as “the recruitment under temporary job opening (“TJO”) for the position of Chief of Office, Political Affairs, UNAMI, and involuntary reassignment to an officially created position” (“the contested decision”).

3 The Respondent filed a reply on 11 April 2022 and the Applicant, with leave of the Tribunal, filed a rejoinder on the same day.

Background

4 Between 1 March 2021 and 28 February 2022, the Applicant served on a temporary assignment in the United Nations Support Mission in Libya (“UNSMIL”).² While in UNSMIL, the Applicant maintained a lien on his position in UNAMI.³

5 While the Applicant was serving in UNSMIL, his post in UNAMI was filled on a temporary assignment arrangement.⁴

6 On 1 March 2022, the Applicant returned to UNAMI to occupy his position.⁵

7 On 19 March 2022, Ms. Jeanine Heris-Flaschaert, the Special Representative of the Secretary General for Iraq (“SRSG”) informed the Applicant that while he was away in UNSMIL, his post had been filled on a temporary

¹ Application, section I, application annex 2(a).

² Application, annex 3.

³ *Ibid*.

⁴ Application, annex 2(a).

⁵ *Ibid*.

assignment and as such she assigned the Applicant to assume the role of Special Political Adviser; D 1.⁶ The SRSG emphasized that her guidance would have immediate effect.⁷

8 On 24 March 2022, UNAMI advertised the TJO for the post of Chief of Office, Political Affairs, D 1, whose closing date was on 7 April 2022.⁸

9 On 30 March 2022, the Applicant requested management evaluation of the contested decision.⁹ The Management Evaluation Unit is yet to respond.¹⁰

Considerations

10 The application is made under art 22 of the UNDI Statute and art 13 of the UNDI Rules of Procedure

11 Basing on the memoandum of 19 March 2022¹¹ under which the Applicant was informed that his post had been filled (emphasis added) on a temporary assignment in his absence, and that he consequently and with immediate effect¹² (emphasis added) had been assigned to assume the role of Special Political Adviser; D 1, the Respondent argues that the contested decisions have already been implemented and cannot, therefore, be suspended

12 The Applicant on the other hand contests the above assertions and argues that he was in fact not reassigned to another position since he remained on the same post number; but that there was an illegal reclassification of his post. First of all, the word "reassignment" was the one used by the Applicant in his application¹³. He cannot, therefore, be held to introduce a different nature of contested action. Added to that, the

⁶ Application, annex 2(a).

⁷ Ibid

⁸ Application, annex 2(b).

⁹ Application, annex 3

¹⁰ Application, section VI

¹¹ Ibid

¹² Ibid

¹³ Application, section V, para 1(b), p 3

Applicant's arguments do not answer the crucial question of whether or not the contested action has already been implemented and seem to go to the merits of the case

13 The 19 March 2022 memorandum by which the impugned decisions were communicated to the Applicant support the finding that the contested action, (a reassignment as far as the Respondent is concerned and a reclassification as far as the

