
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2023/018
Order No.: 056 (NBI/2023)
Date: 28 February 2023
Original: English

Before: Judge Francesco Buffa

Registry: Nairobi

Registrar: Abena Kwakye-Berko

AL-MASSA'ABI

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER ON AN APPLICATION FOR
SUSPENSION OF ACTION PENDING
MANAGEMENT EVALUATION**

Counsel for the Applicant:

Self represented

Counsel for the Respondent:

United Nations Development Program

Introduction

1. On 27 February 2023, the Applicant, a Common Services Associate Officer with the UNDP, serving at the G-7 level on a fixed-term appointment and based in Yemen, filed an application before the Dispute Tribunal sitting in Nairobi requesting suspension of the Respondent's decision to abolish her post and thus not renew her appointment when it expires on 28 February 2023. She also requested "a Villemoran order suspending the separation until your request for suspension has been decided".

Consideration

2. Articles 2.2 of the Dispute Tribunal's Statute and 13 of the Tribunal's Rules of Procedure govern the Tribunal's jurisdiction in deciding on applications for suspension of action. An applicant must satisfy the Tribunal that the contested decision is *prima facie* unlawful, that the case is of particular urgency and that implementation of the decision would cause irreparable damage.

3. The Tribunal must therefore consider the Applicant's submissions against the *cumulative* test stipulated in art. 2.2 of the Statute and art. 13 of the Rules of Procedure. In other words, the application will not succeed should the Applicant fail to satisfy *any one* limb of the test.

4. This Tribunal has previously held that a request for interim relief shall be rejected if the urgency of the matter is caused by the Applicant's own makings and is therefore self-inflicted.

5. As recalled in *Jitsamruay* UNDT/2011/206, paras. 25 and 26,

the Dispute Tribunal has held in several instances that the requirement of particular urgency will not be satisfied if the urgency was created or caused by the applicant (Applicant Order No. 164 (NY/2010), *Corna* Order No. 90 (GVA/2010), *Lorand* Order No. 93 (GVA/2010), *Yisma* Order No. 64 (NY/2011), *A-Ali et al.* Order No. 220 (NY/2011), as well as *Dougherty* UNDT/2011/133). The Tribunal has also held in *Sahel* UNDT/2011/023 and *Patterson* UNDT/2011/091 that informal

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UNDT/2011/212). The onus is on the applicant to demonstrate the particular urgency of the case and the timeliness of her or his actions. The requirement of particular urgency will not be satisfied if the urgency was created or caused by the applicant (*Villamorán* UNDT/2011/126, *Dougherty* UNDT/2011/133, *Jitsamruay* UNDT/2011/206).

9. In *Majoul-Hunter* UNDT/2012/117, paras. 16 and 17, the applicant was informed of the decision not to extend her appointment and waited almost five weeks

before she filed her application; she did not proU()40(did)38(not)38(pro)JTJET@0.00000912 0 612 792 re

