



Introduction

1. On 25 March 2014, the Applicant, Program Officer in the United Nations Children's Fund ("UNICEF") in Bangladesh, filed an application for suspension of action by which the Applicant requested the Tribunal to order suspension of the implementation of the decision not to extend her appointment beyond its expiration date of 31 March 2014.

2. The Registry transmitted the present application to the Respondent on 25 March 2014. The Respondent duly filed his reply on 26 March 2014 and informed the Tribunal that prior to receiving the application for suspension of action, the

20 August 2013, the Chief of Human Resources in the UNICEF office in Dhaka requested, through memorandum copied to the concerned staff members, that the HoZO submits her recommendation as to whether their fixed-term appointments, including the Applicant's, should be extended beyond 31 December 2013.

6. On 19 September 2013, the HoZO sent an email to the Applicant referring to the performance related discussions in prior meetings during which specific suggestions were said to have been made to improve the Applicant's unsatisfactory performances in various areas, including competencies, communication and teamwork. On 29 September 2013, referring to a discussion held the same day, the Applicant requested via email that the HoZO provides examples that had led her to reach such conclusions.

7. By memorandum dated 6 October 2013, copied to the Applicant, the HoZO recommended that the Applicant's contract shall not be extended beyond 31 December 2013. The HoZO referred to the unsatisfactory performance of the Applicant as well as various behavioral issues. Referring to efforts made in order to improve her performance, the HoZO indicated that "[d]espite all of these efforts, it has been found that the [Applicant] is continuously remaining as under-performer". The HoZO further indicated that the Applicant "has been damaging the office environment and relationships with the counterparts".

8. On 18 November 2013, the Applicant addressed, via email, a complaint of harassment, discrimination and abuse of authority against the HoZO to a number of individuals, including the Chief Field Operations of UNICEF in Bangladesh. The Applicant referred to the email of 19 September 2013 from the HoZO as well as to the letter of 6 October 2013. She further indicated that it had been two months since the HoZO had been requested to provide instances of under-performance or behavioral problems that had led to her comments and the Applicant had received no response.

Investigations at Headquarters, an application for management evaluation with the UNICEF Deputy Executive Director and a rebuttal of [her performance appraisal] for the year 2013 with the regional [Human Resources] Chief”.

14. The Applicant requested management evaluation of the decision not to extend her appointment beyond expiration on 31 March 2014 on 7 March 2014. By letter dated 10 March 2014, the Chief of Policy and Administrative Law Section, Division of Human Resources, UNICEF, acknowledged receipt of the above mentioned Applicant’s email and indicated that a response to the management evaluation request by UNICEF shall be provided on or before 21 April 2014.

15. On 26 February 2014, the Respondent informed the Applicant that in view of the rebuttal process and the management evaluation request, which are closely inter-related, the decision not to extend her appointment will be suspended until completion of, firstly, the rebuttal process in relation to the performance evaluation and, secondly, the process of management evaluation of that same decision. The Applicant acknowledged receipt of this communication on 27 February 2014 and informed the Respondent that she has decided to accept the offer of a two-month extension of her contract.

Consideration

16. The Tribunal notes that the Applicant has confirmed, via email dated 27 March 2014, that she accepted the Respondent’s offer to extend her contract for two months. The Applicant further acknowledged receipt of the Respondent’s letter whereby she was informed that the decision not to extend her appointment will be suspended until completion of both the rebuttal process in relation to the performance evaluation report and management evaluation of the decision to not extend the fixed-term appointment of the Applicant. It results that the contested decision was suspended after the filing of the present application.

17. Consequently, the implementation of the contested decision being already suspended pending the management evaluation, the Tribunal considers that the application remained without object.

Conclusion

18. In view of the foregoing, the Tribunal hereby orders that the application for suspension of action be rejected.

(Signed)

Judge Alessandra Greceanu

Dated this 28th day of March 2014