

Introduction

1. On 28 May 2018, the Applicant, a Senior Security Officer at the S-3 step 11 level with a permanent appointment serving in the United Nations Department of Safety and Security UN in New York, submitted an application requesting suspension pending management evaluation of the decision to select a candidate other than him for a position at the S-4 level as Security Sergeant.

2. On the same day, the case was assigned to the undersigned Judge.

3. By notification dated 28 May 2018, the New York Registry acknowledged receipt of the application and, upon the instruction of the Judge, the Tribunal instructed the Respondent to file a reply by 5:00 p.m. on 30 May 2018.

4. In his duly filed reply, the Respondent claims that the Application should be rejected as not receivable because the contested decision has been implemented on 8 May 2018. The Respondent also argues that should the Dispute Tribunal find that the Application is receivable, it should be dismissed because the Applicant has failed to satisfy the conditions for granting an order for suspension of action under art. 2.2

fully considered in the selection exercise. Second, any urgency is self-created. Third, the Applicant has not demonstrated irreparable harm.

Factual and procedural background

5. In his application, the Applicant sets out the following chronology of facts (emphasis omitted):

Petitioners belong to a group of candidates on a permanent roster established in 2008 for the position of S-4 (Security Sergeant).

congratulated for their selection to the rank of Security Sergeant (S-4)

the decision appears *prima facie* to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

8.

itted the contested administrative decision for management evaluation, where required

9. Article 13.1 of the Tribun

The Dispute Tribunal shall order a suspension of action on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears *prima facie* to be unlawful, in cases of particular urgency and where its implementation would cause irreparable damage.

10. The Tribunal considers that, for an application for suspension of action to be successful, it must satisfy the following mandatory and cumulative conditions:

- a. The Applicant requested management evaluation of the contested decision, which evaluation is ongoing;
- b. The contested decision has not yet been implemented;
- c. The application concerns an administrative decision that may properly be suspended

Whether the Applicant requested management evaluation of the contested decision and whether the evaluation is ongoing

11. It follows from art. 2.2 of the Dispute the
Rules of Procedure that the suspension of action of a challenged

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20. When formed, the employment contract is a legally binding bilateral act that is agreed upon by the consensual will of the contracting parties and it is not required

