



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2010/043

Judgment No.: UNDT/2010/177

Original: English

## **Introduction**

1. The applicant has appealed to the Tribunal against the administrative decision by the respondent not to renew her fixed-term appointment with the General Services Section of the United Nations International Criminal Tribunal for Rwanda (UNICTR) in Arusha, Tanzania. She seeks a review of the decision to separate her.

2. She alleges violation of the rules governing termination or abolition of posts, and reduction of staff members under fixed-term contracts; lack of transparency in that she was not advised of the downsizing exercise or the abolition of her post before seeing her notice of separation; harassment for having been a whistle blower. The Applicant also complains that neither her long service nor her retirement age was considered.

3. The respondent raised a preliminary objection to the application on grounds of receivability of the application on the basis that the applicant had not filed a request for management evaluation within the time frames specified in the Staff Rules.

4. The Tribunal afforded the applicant the opportunity to respond to the respondent's objection.

## **Applicant's Submissions on Receivability**

5. The applicant submits that it was her efforts to have the matter resolved internally which delayed her filing a request for Management Evaluation. She says that in trying to do so she ran out of time for the appeal because it took quite a long time before a meeting could be arranged between all concerned parties. She also had difficulties in receiving information she requested.

6. The applicant cites Article 6(3) of UNDT Rules of Procedure encouraging internal resolution of disputes in support of her course of action.

7. Article 6(3) stipulates that where the parties have sought mediation of the dispute but did not reach agreement, the application shall be filed within 90 days of

### **The Law on Receivability**

13. The time for requesting a management evaluation in this case is specified in Staff Rule 111.2(c). This rule provides that a request for management evaluation should not be receivable by the Secretary-General unless it was sent within 60 days of notification of the contested administrative decision. The Secretary-General is able to extend this time limit pending efforts for informal resolution by the office of the Ombudsman.

14. In this case there is no evidence that the parties submitted the matter to the office of the Ombudsman for mediation within the deadlines for filing a management evaluation. There was no request of the Secretary-General to extend the time limit for this purpose. The applicant was therefore bound by the 60 day limit.

15. Article 8(3) of the UNDT Statute states:

The Dispute Tribunal shall not suspend or waive the dead lines for management evaluation.

16. The UNDT has previously held, pursuant to Article 8(3), that the Tribunal has no power to suspend or waive time limits for management evaluation. This judgment was upheld by the Appeals Tribunal.<sup>1</sup>

17. The Tribunal is bound by Article 8 of its Statute which stipulates when an application is receivable. Article 8(1)(c) provides that an application shall be receivable if

an applicant has previously submitted the contested administrative decision for management evaluation, where required and the application was filed within the specified deadlines.

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<sup>1</sup> *Costa*, UNDT/2009/051; *Costa*, 2010-UNAT-036.

**Decision**

18. This application does not comply with Article 8(1) (c). It was not filed within