
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NBI/2020/006

Judgment No.: UNDT/2020/202

Date: 4 December 2020

Original: English

Before: Judge Margaret Tibulya

Registry: Nairobi

Registrar: Abena Kwakye-Berko

TOSON

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT ON RECEIVABILITY

Counsel for the Applicant:

Self-represented

Counsel for the Respondent:

Katrina Waiters, UNFPA

Background

1. The Applicant is a staff member of the United Nations Population Fund (“UNFPA”) serving as Representative at the UNFPA Oman Country Office within the Arab States Regional Office at the P-5 level.
2. On 19 January 2020, he filed an application challenging

informing him as follows regarding the rotation exercise:

...

rights as a staff member. There has been no change to the Applicant's legal status nor does the Applicant suggest any change, consequence or detriment incurred based on his receipt of this email.

(2) *Email notices of non-selection decisions*

14. In his 23 December 2018 application to the 2019 Rotation Exercise, the Applicant applied for the post of Representative, UNFPA CO Yemen. The Applicant was notified on 14 May 2019 that he was not selected via email from the DHR.

15. In the same application, the Applicant also applied for the post of Representative, UNFPA CO Brazil. Similarly, the Applicant was notified on 12 July 2019 that he was not selected via email from DHR.

16. Outside of the Rotation exercise, the Applicant also applied for the post of Chief, Executive Board Branch at HQ. He was notified on 10 May 2019 via email that he was not selected for the post.

17. The Applicant filed his management evaluation requests ("MERS") on 6 November 2019, well bey9(t)-4ll beber 2 TJET5-ET5 0 0 1 463.63 726.7 TmBT/F3 1238(o)-1pQq0.0000

20. It produced a direct legal impact on his legal status as it was retaliatory, arbitrarily and constituted an abuse of authority. The decision produced substantial moral, health and reputational damage, financial losses related to assignment grant and entitlements. The reputational damage was so severe and irreparable that he was not selected for 22 posts with five different United Nations agencies including those of identical nature to his current job functional level of D-1 with UNFPA.

21. The Applicant avers that the decision contained in the 26 September 2019 email was confirmed by the circular dated 18 October 2019 from the Director/DHR confirming his non-

on his terms of appointment or contract of employment.

29. The applicable legal decision is the Circular dated 18 October 2019. This Circular confirmed to the Applicant that he had not been selected for any of the posts he had applied for in 2019.

Whether the application

34. The application is receivable in relation to the Applicant's contention of the 18 October 2019 Circular by which he became aware that he had not been selected to the following posts and for which he was within the statutory deadlines for requesting management evaluation:

- a. Representative in the CO Uzbekistan;
- b. Representative in the CO Ukraine;
- c. Representative in the CO Palestine;
- d. Representative in the CO Nigeria;
- e. Representative in the CO Bolivia; and
- f. Chief, Gender and Human Rights Branch in the TD at UNFPA's Headquarters ("HQ").

The Tribunal will hold a hearing on the merits of these claims on a date to be communicated to the parties by the Registry.

(Signed)

Judge Margaret Tibulya

Dated this 4th day of December 2020

Entered in the Register on this 4th day of December 2020

(Signed)

Abena Kwakye-Berko, Registrar, Nairobi