

in Date

accordance with section 1.1 of the ST/AI/2019/1 (Resolution of disputes relating to medical determination).¹¹ The IMP examined the Applicant on 15 November 2019 and submitted his report to DHMOSH on 6 August 2020.¹²

12 Based on the findings of the IMP, on 1 September 2020 the Applicant requested the DHMOSH to recommend her case to UNSFC with immediate effect. In her view the IMP assessment clearly contradicted DHMOSH's previous assessments.¹³ On the same day, DHMOSH replied to the Applicant and informed her that "based on our

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evaluation of those decisions, but acknowledges that she has not done so. Therefore, her claims relating to those decisions are not receivable ratione materiae.

MERITS

Standard of review

22 When judging the validity of the Administration's exercise of discretion in administrative matters, the Dispute Tribunal determines if the decision is legal, rational, procedurally correct, and proportionate. The Dispute Tribunal can consider whether relevant matters have been ignored and irrelevant matters considered and examine whether the decision is absurd or perverse.¹⁸ It is not the role of the Dispute

The contested decision was lawful

25 DHMOSH did not recommend the Applicant for a disability pension benefit

32 The Applicant is not entitled to the relief she requests. The DHMOSH decision was legal, rational, and procedurally correct. The Applicant has produced no evidence of harassment required by art 10(b)(5) of the Dispute Tribunal's Statute. The Applicant has been medically cleared to work at Hard A duty stations in positions for which she is qualified. She has not demonstrated any efforts to apply for other jobs in H/A, or any non-field duty stations.

JUDGMENT

33 The application is rejected in all respects.

(Signed)

**Judge Alexander W Hunter, Jr.
Dated this 17th day of January 2022**

Entered in the Register on this 17th day of January 2022

(Signed)

Abera Kwakye Berko, Registrar, Nairobi