



IN THE MATTER OF:

M.S., Applicant

v.

Chairperson of the African Union Commission, Respondent

FOR APPLICANT: *Pro se*

FOR RESPONDENT: Namira Negm, Legal Counsel, African Union Commission

BEFORE: S. MAINGA, President, A. NYIRENDA, and S. PEEROO¹

HEARD ON: 21 September 2020

JUDGMENT

Procedural and Factual History

1. On 24 June 2015, Applicant, a former Acting Head of Translation Division in the Directorate of Conference Management and Publication (DCMP), filed the instant application contesting various adverse administrative decisions issued against her by the Organization.
2. The decisions she contests are: (a) the refusal to pay her retroactive acting allowance; (b) the refusal to confirm her as Head of Translation Division; (c) the decision to cancel the recruitment process for the position of Head Translation Division; and (d) the refusal to transfer her to an African Union office located in Europe on medical grounds.
3. On 26 January 2016, the application was transmitted to Respondent, who filed his Answer on 30 March 2016. Applicant filed her Observations to Respondent's Answer on 30 April 2016, bringing the written pleadings to a close.
4. Upon review of the documentary record, the Tribunal believes the facts and issues have been presented adequately in the pleadings and determines this matter without the need to invite the parties for oral hearing.
5. The timelines of the various administrative decisions and implied refusals at issue here are summarized in the following paragraphs.
6. On 29 August 2011, the Director of DCMP appointed Applicant as Officer-in-Charge of the Translation Division, DCMP. On 12 October 2011, the Director of DCMP requested the Director of Administration and Human Resources Management (AHRMD) to appoint Applicant as Acting Head of Translation Division.
7. On 15 November 2012, the Director of AHRM, appointed Applicant as Acting Head of Translation Division effective 1 November 2012.

¹ Judge Sylvester S. Mainga was sworn in as African Union Administrative Tribunal Judge on 10 July 2019. He joins Judges Nyirenda and Peeroo in this judgment to permit conclusion of the proceedings in this matter under AUAT Statute art. 4(i).

8. On 11 February 2013, Applicant contested the effective date of her acting appointment and requested the Director of AHRM to correct the appointment date and compute her acting allowance retroactive to 20 October 2011. Applicant did not receive any response to her request.
9. On 2 July 2013, Applicant requested the Chairperson to confirm her as Head of Translation Division, a post she had been occupying on acting appointment basis since 1 November 2012. Applicant did not receive any response to her request.
10. On 13 May 2013, Applicant requested the Chairperson to transfer her, on medical grounds, to an African Union office located in Europe, indicating her preference as the African Union office in Brussels, Belgium. Applicant made similar requests on two subsequent occasions, on 7 July 2013 and 11 July 2013. Applicant did not receive any response to her requests.
11. On 7 September 2008, Applicant submitted her application for the post of Head of Translation Division. On 24 October 2014, the Director of AHRM informed Applicant that the recruitment process for that post had been suspended.
12. On 10 November 2014, Applicant filed a grievance letter with the Chairperson, followed by a memorandum of similar content addressed to the Staff Union on 19 December 2014. On 27 January 2015, Applicant submitted her grievances to the Joint Administrative Committee (JAC). A final memorandum was sent on 12 May 2015 advising the Chairperson of her intention to file an application with the Tribunal. Having received no response from the Chairperson, the instant application followed on 24 June 2015.
13. Applicant retired from the Organization's service on 30 June 2015.

Discussion

14. Except for applications challenging a disciplinary action, requesting administrative review of the contested decision by the Chairperson or other appropriate authority is a mandatory first step.² The Tribunal cannot review a non-disciplinary administrative decision that has not been the subject of a prior administrative review under Staff rule 62.1.1.³
15. A staff member must seek such review within thirty days of the contested administrative decision.⁴ The reviewing official has thirty days to complete the review, failing which the request will be deemed constructively denied.⁵ The staff member then has additional thirty days to file an application with the Tribunal, reckoned thirty days after the filing of administrative review request or from the date of receipt of a decision on the administrative review request, whichever comes first.⁶ Staff members must strictly comply with these mandatory rules.⁷
16. Applicant was aware of the contested decisions or implied refusals variously in time frames ranging from one to three years prior to the date the instant application was filed. Her successive correspondence with officials of Respondent notwithstanding, all claims contained in the instant application were presented in a manner that does not meet the strict timelines set forth under Staff rule 62.1.1.
17. Applicant was aware of the administrative decisions, implied or otherwise, that she contests in this application and could have filed her application sooner. Even considering the record in the light most favorable to Applicant, her Application should have reached the Tribunal no later than 9 January 2015 given that she addressed her grievance letter to the Chairperson on 10 November 2014. Therefore, the application, received on 24 June 2015, is time-barred and not receivable.
18. Notwithstanding the holding above, it is observed that Respondent has conceded that Applicant was entitled to "acting allowance in accordance with [Staff rule 24.2(a)] with effect from 1 November 2012... [upto] the last day of the acting

² Staff rules 62.1.1-1.2; *B.W.*, AUAT/2015/008.

³ Staff rules 62.1.1-1.2; AUAT Statute art. 13(i); AUAT Procedure, rule 11.7.

⁴ *Id.*

⁵ *Id.*

⁶ Staff rules 62.1.1-1.2; AUAT Statute art.13(iv).

⁷ *M.Z.L.*, AUAT/2018/001, para. 13.

appointment.”⁸ To the extent such allowances remain unpaid, the Tribunal considers it appropriate for the Organization to resolve it administratively.

Order

19. For the above reasons, the Tribunal DISMISSES the application.

Date: 12 October 2020

/signed/

SYLVESTER MAINGA, PRESIDENT
ANDREW NYIRENDA
SHAHEDA PEEROO

Secretary: 

⁸ Respondent’s Answer, p. 3 para. 2.