



IN THE MATTER OF:

M.N.
B.B.
O.S., Applicants

v.

Chairperson of the African Union Commission, Respondent

FOR APPLICANTS: David Tamo, Esq.
FOR RESPONDENT: Namira Negm, Legal Counsel, African Union Commission
BEFORE: S. MAINGA, President, A. NYIRENDA, and S. PEEROO¹
HEARD ON: 23 September 2019

JUDGMENT

Procedural and Factual History

1. On 9 December 2011, Applicants, *M.N.*, *B.B.*, and *O.S.*, former staff members of the Inter-African Phytosanitary Council (IAPSC), based in Yaounde, Cameroun, filed the instant consolidated applications contesting their dismissal for misconduct.
2. On 13 June 2018, the Tribunal asked Applicants to file biographic forms, and submit copies of the contested decisions as well as any additional evidence they wished to submit in support of their applications.
3. Applicants' submissions were transmitted to Respondent on 12 September 2018, with a requirement to file his Answer by 12 October 2018. Despite seeking an extension, which was granted until 12 November 2018, Counsel for Respondent did not file an Answer.
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 relevant facts are summarized as follows.

¹ Judge Sylvester 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 disposition of this matter under AUAT Statute art. 4(i).

6. On 27 March 2008, the Director of Administration and Human Resources notified Applicants individually, by separate memorandums, of their dismissal for misconduct effective immediately. The memorandums further indicated that *M.N.* was guilty of three (3) counts of misconduct, *B.B.* guilty of nine (9) counts, and *O.S.* guilty of three (3) counts; and that each applicant owed the Organization \$6,617.73, \$8,322.89, and \$2,778.96, respectively.
7. On 5 May 2008, Applicants wrote to the President of the Staff Union complaining of unfair dismissal and asking him to “take all necessary measures to reinstate justice [sic], in compliance with the Staff Rules and Personnel Code in force with in the African Union Commission.”
8. On 7 July 2008, the President of the Staff Union wrote to the Chairperson seeking review of the decisions dismissing Applicants and several other staff members who are not parties to the instant matter.
9. Between 27 March 2008, when Applicants were notified of their dismissal and when they filed their applications on 9 December 2011, there were several memorandums sent to the Chairperson and the Deputy Chairperson of the African Union Commission. Applicants also indicate that an in-person meeting with the Deputy Chairperson was held in Yaounde on 12 May 2009. Having received no administrative resolution of their collective grievances, Applicants filed the instant applications on 9 December 2011.
10. Applicants collectively claim that they were improperly disciplined for addressing their employment grievances to the Ministry of External Relations of the Republic of Cameroun. They additionally claim that the disciplinary actions against them were taken without lawful authority or due process, and pray for reinstatement, payment of unpaid entitlements, as well as damages and legal fees.
11. Respondent has not filed an Answer.

Discussion

12. Under Staff rule 62(a)²:

...Any staff member wishing to appeal against an administrative decision concerning him shall, as a first step, address a letter to the Secretary-General requesting that the administrative decision in question be reviewed; such a letter must be sent by registered mail if the staff member is serving outside the Headquarters, within thirty days from the date of the contested decisions. If the Secretary-General confirms the decision or if no reply is received by the staff member within thirty days, the staff member shall be entitled to file, within a further thirty days, an appeal with the Administrative Tribunal...

13. Under art. 13 of Statute of the Tribunal, applications contesting a disciplinary decision by the Organization are not subject to the mandatory review requirement prior to filing an application with the Tribunal. As such, a staff member must file his or her application with the Tribunal within thirty days of such decision. Staff members must strictly comply with these mandatory rules.³
14. In the present case, Applicants concede that they were notified of the disciplinary decisions imposed against them simultaneously on 27 March 2008. Under the mandatory timelines prescribed by the rules reproduced above, their applications were due for filing with the Tribunal at the latest on or before 26 April 2008. Therefore, the consolidated applications, received by the Tribunal on 9 December 2011, are time-barred and not receivable.

² The contested decisions having been issued on 27 March 2008, the instant applications are governed by the rules contained in the Staff Regulations and Rules, CM/1745(LVII) (1993), which was in force until the enactment of the current Staff Regulations and Rules, Assembly/AU/4(XV) (25-27 July 2010).

³ *M.Z.L.*, AUAT/2018/001, para. 13.

Order

15. For the above reasons, the Tribunal DISMISSES the consolidated applications.

Date: 12 October 2020

/signed/

SYLVESTER MAINGA, PRESIDENT
ANDREW NYIRENDA
SHAHEDA PEEROO

Secretary: *Paulos Mwendwa*