



IN THE MATTER OF:

M.K.W., Applicant

v.

Chairperson of the African Union Commission, Respondent

FOR APPLICANT: Emmanuel ABRAYE, Esq.

FOR RESPONDENT: Hajer GUELDICH, Legal Counsel, African Union Commission

BEFORE: S. MAINGA, President, J. SEDQI, and P. COMOANE

HEARD ON: 24 November 2023

JUDGMENT

Procedural and Factual History

1. On 30 December 2022, Applicant, former Director of Women, Gender and Development (WGDD) within the African Union Commission filed an application alleging that Respondent failed to meet his duty of care and was responsible for various breaches of the provisions of the Staff Regulations and Rules.
2. The application was received at the Tribunal on 30 December 2022 and transmitted to Respondent on 24 January 2023. Respondent filed his written answer on 27 March 2023. Applicant submitted her written Observations on 26 April 2023, at which time written pleadings closed in this matter. On 24 November 2023, the Tribunal considered this matter on the papers filed by the parties without the need for an oral hearing.
3. Because of the manifest jurisdictional issues present in this matter, the Tribunal will only summarize facts pertinent to the threshold issue of receivability. Applicant first joined the Organization on 27 November 2015 as Director (D-1) of WGDD. She successfully completed the probationary period in January 2017 and her appointment was extended through 28 November 2018.
4. On 30 October 2018, seven staff of WGDD filed complaints of managerial abuse and harassment against Applicant. In Applicant's understanding, these allegations were unfounded claims meant to intimidate and harass her. In Applicant's own presentation, she was met by an uncooperative team within WGDD, and believes she was targeted for attempting to professionalize the team. It is also Applicant's submission that Respondent failed to properly investigate the complaints subjecting her to unending investigations in breach of procedures mandated under Staff rule 74.
5. Applicant explains that she presented her resignation letter to Respondent during her meeting with him in April 2018. She was, however, dissuaded from resigning by Respondent, but ultimately resigned from service effective 31 May 2019.
6. Her woes did not end with resignation. According to Applicant, Respondent withheld her separation benefits on account of a Tribunal matter then pending (Case No. 2019/001). This matter involved a WGDD staff (A.N.)¹ who made allegations of bias and abuse against Applicant. The Tribunal disposed off the matter in Judgment No. 2020/002 on 14 September 2020. Applicant was eventually cleared in December 2020 and payment of her terminal benefits was subsequently affected, by Applicant's own admission, ten months after her separation from service.

¹ In his answer, Respondent alleges that in fact it was Applicant who engaged in prohibited conduct against the staff member concerned in Judgment No. 2020/002.

7. By letter dated 22 October 2022, Applicant, through counsel, filed a grievance letter with the Chairperson. In the absence of a response, Applicant submitted her case to the Tribunal on 30 December 2022. In her application, Applicant seeks various declaratory and financial orders against Respondent. In opposition, Respondent submits that Applicant's claims are time-barred and otherwise unfounded. However, Respondent concedes that Applicant is entitled to a certified statement of service and that he will issue the same if so ordered by the Tribunal.

Discussion

8. For an application to be receivable, a staff member must seek review by the Chairperson within thirty (30) days of the contested administrative decision.² The Chairperson has thirty (30) days to complete the review, failing which the request will be deemed constructively denied.³
9. The staff member then has additional thirty (30) days to file an application with the Tribunal, reckoned thirty (30) 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.⁴ Staff members must strictly comply with these mandatory timelines.⁵
10. The various breaches that Applicant complains of in this application date back to 2018-2019, including the alleged failure to properly investigate staff claims against Applicant, procedural breaches in relation to the conduct of investigations, lack of protection from harassment or defamation as well as the unwarranted withholding of terminal entitlements and benefits.
11. Significantly, all breaches of rule or procedure alleged by Applicant occurred years before the present application was filed, rendering her application untimely. Even considering the record in the light most favorable to Applicant by reckoning the filing timelines from the date Applicant received her terminal benefits in February/March 2021, this application would still be time-barred and not receivable.
12. Notwithstanding the holding above, Respondent is ordered to issue a certified statement of service to Applicant within thirty (30) days of this judgment.
13. The Application is DISMISSED.

Date: 26 February 2024

/signed/

SYLVESTER MAINGA, PRESIDENT
JAMILA B. SEDQI
PAULO D. COMOANE

Secretary: _____



² Staff rule 62.1.

³ *Id.*

⁴ Staff rule 62.1; AUAT Statute art.13(iv).

⁵ *M.Z.L.*, AUAT/2018/001, para. 13.