



JUDGE INÉS WEINBERG DE ROCA, Presiding.

Synopsis

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4. Also on 16 February 2010, Rasul filed a document entitled “Applicant’s notification of withdrawal”, in which she withdrew her request for suspension of action on the basis that the Secretary-General had agreed to extend her contract by one month and her application had become moot.

5. The Secretary-General filed an appeal against the Order on 5 April 2010. Rasul filed an answer to the appeal on 4 May 2010.

Submissions

Secretary-General’s Appeal

6. The Secretary-General submits that the Order constitutes a judgment within the meaning of Article 2(1) of the Statute of the Appeals Tribunal (Statute). As the Order for suspension of action exceeds the competence of the Dispute Tribunal, the prohibition on an appeal from a decision of the Dispute Tribunal on an application for suspension of action under Article 2(2) of the Statute of the Dispute Tribunal (UNDT Statute) does not apply. Accordingly, the appeal is receivable.

7. The Secretary-General submits that the Dispute Tribunal may suspend the implementation of a contested administrative decision only for the duration specified in Article 2(2) of the UNDT Statute, namely during the pendency of the management evaluation. The Dispute Tribunal exceeded its competence by ordering the suspension of the administrative decision for four weeks following the date of communication to Rasul of the outcome of the management evaluation if the evaluation resulted in an adverse outcome for Rasul.

8. The Secretary-General requests that the Appeals Tribunal make a number of findings and vacate the Order of the Dispute Tribunal.

through the Office of the Ombudsman, and her contract has been extended on a month-by-month basis during this process.

10. Rasul submits that the Secretary-General has no standing to challenge the Order. By extending her contract prior to the issuance of the Order, the Secretary-General rendered her request for suspension of action moot. At the time the Order was issued by the Dispute Tribunal, there was no longer an application for suspension of action before the Tribunal for it to consider.

11. Rasul requests that the Appeals Tribunal dismiss the appeal in its entirety.

Considerations

12. As a preliminary matter, this Tribunal must determine if the appeal by the Secretary-General is receivable under Article 7 of the Statute. The issue of receivability arises in this case as Rasul withdrew her application to the Dispute Tribunal for suspension of action on the same day that the Dispute Tribunal issued the Order for suspension of action.

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