



1.

... On 8 April 2011, [Ms. Roig] filed an application with the Dispute Tribunal contesting the selection of a candidate other than her which resulted in a breach of her rights.

... On 13 May 2011, the [Secretary-General] submitted his reply in which he contested, inter alia, the receivability of [Ms. Roig's] request for management evaluation. The [Secretary-General] submitted that it was filed 52 days after the 28 December 2010 deadline to request a review of the 29 October 2010 administrative decision informing [Ms. Roig] of her non-selection for the Post, thereby rendering her management evaluation time-barred.

... On 17 May 2011, [Ms. Roig] submitted comments on the [Secretary-General's] reply[,] stating that her management evaluation request was timely as she had only found out who the selected candidate was on 17 December 2010. [Ms. Roig] further stated that she "was not contesting her non-selection ... [but] that her right for due process was violated by the selection of a candidate who ... did not even meet the minimum qualification required".

ue

3. The Dispute Tribunal concluded that Ms. Roig's application was not receivable. It identified the administrative decision under appeal as the decision of 29 October 2010, holding,

aside from the question as to whether or not an applicant has standing to7n198ethe

5. Accordingly, as the Dispute Tribunal found that Ms. Roig's request for management evaluation was filed late, without an extension from the Secretary-General pursuant to Staff Rule 11.2(c), it concluded "seeing that the initial request for management evaluation was time-barred it has no legal effect and the application before the Tribunal is therefore not receivable", pursuant to Article 8 of the Statute of the Dispute Tribunal.

Submissions

Ms. Roig's Appeal

6. Ms. Roig submits that her application was receivable and that the UNDT erred both in fact and law.

7. She explains that she was not contesting her non-selection but, rather, the fact that the successful candidate did not meet the minimum requirements for the Post. As such, Ms. Roig avers that the decisive date is the date on which she was informed of the identity of the selected candidate, i.e. 17 December 2010, and that her request for management evaluation was, thus, timely. She relies on the fact that the MEU did not find her request time-barred.

8. Ms. Roig contends that the Dispute Tribunal erred in finding that only written administrative decisions may be appealed.

9. Ms. Roig requests the Appeals Tribunal to find that, as her request for management evaluation was not time-barred, her application to the Dispute Tribunal was receivable. She also asks the Appeals Tribunal to consider the merits of her case.

The Secretary-General's Answer

10. The Secretary-General submits that the UNDT correctly concluded that the relevant date of the contested decision - and the sole administrative decision - was the date on which Ms. Roig was informed of her non-selection, i.e., 29 October 2010.

11. As such, he contends that the Dispute Tribunal correctly concluded that Ms. Roig's request for management evaluation was time-barred.

12. The Secretary-General further submits that Ms. Roig has established no reversible error on the part of the Dispute Tribunal.

13. The Secretary-General requests the Appeals Tribunal to dismiss the appeal in its entirety.

Considerations

14. It is not disputed that the Appellant did not submit a timely request for management evaluation of the 29 October 2010 decision not to select her for the post.

15. The Appeals Tribunal has repeatedly held that it “has been strictly enforcing, and will continue to strictly enforce, the various time limits”.⁴

16. Article 8(3) of the UNDT Statute states, in very plain language, that the Dispute Tribunal shall not suspend or waive the deadlines for management evaluation.

17. It is now well settled by the jurisprudence of the Appeals Tribunal that, pursuant to Article 8(3), the UNDT has no discretion to .8(cle 8)5. ()Tj/.0172 Tc .3587 Tw 36ry plaat

THE U