



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2015/052
Order No.: 33 (NY/2016)
Date: 5 February 2016
Original: English

Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

CHUA

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

ORDER

ON WITHDRAWAL

Counsel for Applicant:

Jiries Saadeh, OSL G.7BT1 0 0 1 1815 reW*n /P AM9 EMC /P AMCID 13/Lang (en-US)BDC3012 12BT1 0 0

Introduction

1. The Applicant is a staff member of the Department for General Assembly and Conference Management. She joined the Organization in 1995 and has a permanent appointment. She contests the decision “not to apply the provisions of [sec.] 3.1 of ST/AI/2009/1 [Recovery of overpayments made to staff members] ... with respect to the recovery of dependency allowances paid to her in support of her mother for 2010”. It appears from the documents filed that the final amount recovered from the Applicant was USD1,318.
2. On 2 December 2015, the Tribunal issued Order No. 298 (NY/2015), directing the parties to consider informal resolution of the matter.
3. On 16 December 2015, the parties filed a joint motion seeking a one-month suspension of the proceedings. The parties stated that they were “confident that they will be able to settle the case over the coming few weeks”.
4. By Order No. 307 (Nf dependenc1 17en2015,

Applicant's allegations and claims in Case No. UNDT/NY/2015/052. ... This is a full, final and entire withdrawal, including on the merits, with no right of reinstatement.

Consideration

7. The desirability of finality of disputes within the workplace cannot be gainsaid (see *Hashimi* Order No. 93 (NY/2011) and *Goodwin* UNDT/2011/104). Equally, the desirability of finality of disputes in proceedings requires that a party should be able to raise a valid defence of *res judicata*, which provides that a matter between the same persons, involving the same cause of action, may not be adjudicated twice (see *Shanks* 2010-UNAT-026bis; *Costa* 2010-UNAT-063; *El-Khatib* 2010-UNAT-066; *Beaudry* 2011-UNAT-129). As stated in *Bangoura* UNDT/2011/202, matters that stem from the same cause of action, though they may be couched in other terms, are *res judicata*, which means that the Applicant does not have the right to bring the same complaint again.

8. With regard to the doctrine of *res judicata*, the International Labour Organization Administrative Tribunal ("ILOAT") in Judgment No. 3106 (2012) stated at para. 4:

The argument that the internal appeal was irreceivable is made by reference to the principle of *res judicata*. In this regard, it is argued that the issues raised in the internal appeal were

as to the rights and liabilities of the parties”. Accordingly, the present complaint is not barred by *res judicata*.

justice, not only saving valuable resources of the Organization but contributing also to a harmonious working environment and culture.

Conclusion

12. The Applicant having withdrawn her application pursuant to the terms and conditions of a settlement agreement between the parties, there no longer being any determination for the Tribunal to make, this application is dismissed in its entirety without liberty to reinstate.

(Signed)

Judge Ebrahim-Carstens

Dated this 5th day of February 2016