



Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

Introduction

1. On 31 March 2017, the Applicant, a former staff member with the United Nations, filed an application contesting, “The decision of the Administration to unilaterally amend [Chapter] X of the Staff Rules and Regulations covering Disciplinary Measures and then threaten to notify [the Applicant’s] new employer, of an incomplete disciplinary investigation”. As a remedy, the Applicant requested “that the Administration’s decision to threaten to contact his new employer [...] to disclose contents of an outstanding investigation be rescinded”. As part of his application, the Applicant further requested to have “his name anonymised in any orders or final judgment”.

2. Together with his application, the Applicant also filed a motion for interim measures pursuant to art. 10.2 of the Dispute Tribunal’s Statute and art. 14 of its Rules of Procedure, requesting that the

5. On 4 April 2017, the Respondent filed his response to the motion for interim measures, claiming that the motion was not receivable and that, in any event, it was groundless.

6. By Order No. 72 (NY/2017) dated 7 April 2017, the Tribunal granted the Applicant's motion for interim measure and suspended the contested decision pending the Dispute Tribunal's proceedings. The Tribunal further ordered that anonymity would remain as per Order No. 68 (NY/2017).

7. On 26 April 2017, the Respondent filed his reply, claiming that the application was not receivable *ratione materiae* because, in essence, it did not concern an appealable administrative decision and that, even if so, the decision was lawful.

8. On 16 May 2017, Counsel for the Applicant filed a "Notice of Withdrawal", stating that:

... On 31 March 2017, the Applicant submitted to the Tribunal the Application, UNDT/NY/2017/024.

... The matter has now been settled and accordingly, the Applicant hereby submits its notice of withdrawal of the Application and all his allegations and claims before the Dispute Tribunal.

9. Much of the background, history and legal submissions in this matter have been previously set out in Order No. 62 (NY/2017) dated 30 March 2017 and in Order Nos. 68 and 72 (NY/2017) which, for the purpose of this Order, the Tribunal sees no reason to reiterate herein.

Consideration

13. 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

