



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/NY/2017/016
Order No.: 182 (NY/2017)
Date: 7 September 2017
Original: English

Before: Judge Ebrahim-Carstens
Registry: New York
Registrar: Morten Albert Michelsen, Officer

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 determined by [ILOAT] Judgment 2538. As explained in [ILOAT] Judgment 2316, under 11:

Res judicata operates to bar a subsequent proceeding if the issue submitted for decision in that proceeding has already been the subject of a final and binding decision as to the rights and liabilities of the parties in that regard.

C" fgekukqp" cu" vq" vjg" ötki jvu" cpf" nkcdknkvkgu" qh" vjg" rctvkguö" pgeguuctkn{" involves a judgment on the merits of the case. Where, as here, a complaint is dismissed as irreceivable, there is no judgment on the merits cpf." vjwu." pq" öhkpcn" cpf" dkpfkpi" fgekukqp" cu" vq" vjg" tki jvu" cpf" nkcdknkvkgu" qh" vjg" rctvkguö" Ceeqtfkpin{"." vjg" rtgugpv" eqo rncxpv" ku" pqv" barred by *res judicata*.

11. In the instant case, the Applicant filed a motion stating that she öykvj ftcyu" her Application fully, finally and entirely, including on the meritsö.

12. The Applicant's unequivocal withdrawal of the merits signifies a final and binding resolution with regard to the rights and liabilities of the parties in all respects in her case, requiring no pronouncement on the merits but concluding the matter *in toto*. Therefore, the dismissal of her case with a view to finality of the proceedings is the most appropriate course of action.

Conclusion

13. The Applicant has withdrawn the present case in finality, including on the merits. 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 7th day of September 2017