

Introduction

1. On 9 November 2016, the Applicant, a former Programme Assistant at the GS-6 level, step 8, with the Project Management Unit, Programme Planning and Operations Division (“PMU”), Economic Commission for Latin America and the Caribbean (“ECLAC”), in Santiago, Chile, filed an application in which she contests the decision not to renew her fixed-term contract “following an alleged abolition of her post following a supposed reorganisation” or restructuring exercise. The Applicant asserts in her application that her nonrenewal and the reasons proffered were simply an attempt to mask the strategy of moving her from her post because of her pregnancy and subsequent maternity and post-maternity leave.

2. On the same date, the Registry acknowledged receipt of the application and transmitted it to the Respondent in accordance with art. 8.4 of the Rules of Procedure of the Dispute Tribunal, instructing him to file a reply by 9 December 2016.

3. On 9 December 2016, the Respondent filed his reply in which he claims that the application is without merit.

4. It is a matter of record that on 27 June 2016, the Applicant had submitted an urgent application with the Tribunal requesting suspension of action of her impending separation from service by 30 June 2016, pending the outcome of management evaluation. In those proceedings the Applicant submitted, amongst others, that no process of reclassification or restructuring was in fact underway and that no other posts appeared to be affected by the alleged process. On 29 June 2016, ECLAC informed the Applicant that it would not implement the nonrenewal decision until the completion of the management evaluation process, whereupon the Tribunal closed the case (see Order No. 155 (NY/2016) dated 29 June 2016 under Case No UNDT/NY/2016/030). On 11 August 2016, the Management Evaluation Unit upheld

2017 jointly-signed submission, in particular the contested facts, that there was a serious dispute of material facts that would necessitate a hearing in this case. Furthermore, that it was also apparent that the Respondent had not fully addressed some of the Applicant's contentions which appeared undisputed. In light of the Tribunal's preliminary observations, and in light of the particular circumstances of this case, the parties were encouraged to make all attempts to resolve this matter amicably. In light of the parties' readiness to engage in informal resolution of this matter as entreated by the Tribunal, the Tribunal suspended the proceedings until 20 February 2018 and ordered the parties to inform the Tribunal, on or before the same date, as to whether the case has been resolved.

9. On 20 February 2018, the parties filed a "Joint Motion for Further Suspension of proceedings", informing the Tribunal that the parties "remain engaged in *inter partes* discussions to informally resolve the matter" and requesting that the proceedings be suspended for a further 30-day period in order to enable their discussions to continue.

10. By Order No. 43 (NY/2018) issued on 20 February 2018, the Tribunal granted the joint motion and suspended the proceedings until 20 March 2018, instructing the parties to inform the Tribunal on or before the same date as to whether the case had been resolved.

11. On 19 March 2018, the parties filed another "Joint Motion for Further Suspension of proceedings", informing the Tribunal that the parties "remain engaged in *inter partes* discussions to informally resolve the matter" and requesting that the proceedings be suspended for a further 30-day period in order to enable their discussions to continue.

12. By Order No. 58 (NY/2018) issued on 19 March 2018, the Tribunal granted the joint motion and suspended the proceedings until 19 April 2018, instructing the

parties to inform the Tribunal on or before the same date as to whether the case had been resolved.

13. On 18 April 2018, the parties filed another “Joint Motion for Further Suspension of proceedings”, informing the Tribunal that the parties “have reached an agreement in principle to resolve this case” and requesting that the proceedings be suspended for a further 30-day period in order to allow time for the Under-Secretary-General for Management to review the case.

14. By Order No. 87 (NY/2018) issued on 18 April 2018, the Tribunal granted the joint motion and suspended the proceedings until 18 May 2018, instructing the parties to inform the Tribunal on or before the same date as to whether the case had been resolved.

15. By request for of withdrawal of proceedings dated 15 May 2018, Counsel for the Applicant stated that,

Following the signing of a Settlement Agreement between the parties, [the Applicant] withdraws all of her allegations and claims in the present proceedings before the United Nations Dispute Tribunal in finality, including on the merits, and therefore requests a discontinuance of the proceedings.

Consideration

16. The desirability of finality of disputes within the workplace cannot be gainsaid (see *Hashimi* Order No. 93 (NY/2011), dated 24 March 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

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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

21. The Tribunal notes that the substantive application in this case was filed in November 2016, which together with documentary annexes, consists of 144 pages. Thereafter followed the reply, subsequent

Conclusion

23. The Applicant has withdraw