

Introduction

1. On 18 August 2017, the Applicant, an Auditor at the P-4 level with the Office of Internal Oversight Services (“OIOS”) in New York, filed an application contesting the decision to not select him for the temporary job opening for the position of Chief of Section, Audit, at the P-5 level (Job Opening No. 17-AUD-OIOS-80688-J-NEWYORK(T)) of the Information and Communications Technology (“ICT”) Section within OIOS. This case was registered under Case No. UNDT/NY/2017/085.

2. The Applicant’s principle contention is that the manner of the temporary recruitment was clearly intended to favour a specified candidate and, in doing so, the Administration failed to give him full and fair consideration for the position.

3. On 18 September 2017, the Respondent filed a reply contending, *inter alia*, that the application is without merit as the Organization fully and fairly considered the Applicant in accordance with the legal framework for temporary appointments. The Respondent states that following a comparative analysis of the job applicants, another candidate, who was allegedly better suited for the position than the Applicant, was selected for the position.

4. On 18 May 2018, the Applicant filed a second application contesting the decision not to select him for the job opening for the position of Chief of Section, Audit, P-5 (Job Opening No. 17-AUD-OIOS-73526-R-NEW YORK(R)) of the ICT section within OIOS. The Applicant contends that recruiting a specified candidate (the preferred candidate) for the temporary appointment for this post before awarding the fixed-term position to this same candidate violated the Administration’s

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Case No. UNDT/NY/2017/085

UNDT/NY/2018/024

suspended the proceedings until 24 October 2018, by which date the parties were directed to inform the Tribunal as to whether the cases have been resolved. If so, the Applicant was directed to confirm to the Tribunal, in writing, that his applications in both cases are withdrawn fully, finally, and entirely, including on the merits.

10. On 17 October 2018, the Applicant filed the motion to withdraw “[f]ollowing informal resolution between the parties”.

Consideration

11. The desirability of finality of disputes within the workplace cannot be gainsaid (see *Hashimi*

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.

A decision as to the “rights and liabilities of the parties” necessarily
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including on the merits. There no longer being any determination for the Tribunal to make, the applications in the combined proceedings are dismissed without liberty to reinstate.

(Signed)

Judge Ebrahim-Carstens

Dated this 31st day of October 2018