



**Before:** Judge Alexander W. Hunter, Jr.

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

ELBAGHIR OSMAN

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**JUDGMENT**

**ON WITHDRAWAL**

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**Counsel for Applicant:**

Self-represented

**Counsel for Respondent:**

Elizabeth Gall ALD/OHR, UN Secretariat

## **Introduction**

1. On 17 January 2019, the Applicant, a Senior Reviser at the P-5 level, step 7, filed an application on the merits in which he contests the decision to terminate his permanent appointment on the ground of unsatisfactory service.

2. The following day (18 January 2019), the Applicant filed a motion for interim measures under art. 10.2 of the Dispute Tribunal's Statute and art. 14 of its Rules of Procedure in which he requested the suspension of the contested decision.

3. Upon the instruction of the Tribunal, on 21 January 2019, the Respondent filed a response to the motion for interim measures.

4. By Order No. 16 (NY/2019) dated 22 January 2019, the Tribunal rejected the motion for interim measures.

5. On 18 February 2019, the Respondent duly filed his reply in which he submits that the application is not receivable as it is premature because it was filed before the Applicant had received the response to his request for management evaluation. Otherwise, the application was, in any event, without merits.

6. By Order No. 39 (NY/2019) dated 20 February 2019, the Tribunal ordered the Applicant to file his comments on the receivability of the application in response to the submissions thereon in the reply by 27 February 2019, noting that the Tribunal will thereafter proceed to determine this issue before considering the merits of the case.

7. After a time extension was granted upon the Applicant's request by Order No. 41 (NY/2019) dated 25 February 2019, on 4 March 2019, the Applicant filed "a request to temporarily withdraw his application", stating that:

1. On 17 January 2019 I filed a [Dispute Tribunal] Application on the Merits contesting the decision to terminate my appointment.
2. I had requested a management evaluation of the decision.
3. Since I filed the [Dispute Tribunal] Application prematurely before the Management Evaluation Unit ["MEU"] had issued its evaluation, I would like to withdraw the [Dispute Tribunal] Application.
4. I will refile a revised [Dispute Tribunal] Application, within the prescribed time limit, in light of the MEU evaluation that was recently issued.

### **Consideration**

8. The Tribunal sees no obstacle to the Applicant's withdrawal of the present case. While the Tribunal agrees that the application was indeed filed prematurely, it is noted that this does not hinder the Applicant from filing another application with the Dispute Tribunal, now that he has received the management evaluation, within the statutory 90-day deadline of art. 8.1(d)(i) of the Dispute Tribunal's Statute. While this might appear to be a waste of judicial resources, it is nevertheless how the system is designed by the Statute of the Dispute Tribunal.

**Conclusion**

9. Case No. UNDT/NY/2019/001 is closed.

*(Signed)*

Judge Alexander W. Hunter, Jr.

Dated this 12<sup>th</sup> day of March 2019

Entered in the Register on this 12<sup>th</sup> day of March 2019

*(Signed)*

Nerea Suero Fontecha, Registrar