

UNDT/2012/194, Giles

UNAT Held or UNDT Pronouncements

The Applicant stated that had the post been advertised, she would have applied and would have been found to fulfill the eligibility requirements. The Applicant subsequently filed a notice stating that, having been advised concerning the receivability issues in her case by her new counsel, she wished to withdraw her application. In light of what the UNDT construed to be an equivocal withdrawal, it sought confirmation from the Applicant that the case was withdrawn fully, finally, and entirely, including on the merits. The Applicant having stated that she was withdrawing the matter fully, including on the merits, the UNDT stated in the judgment that, there no longer being any determination to make in view of the Applicant's unequivocal withdrawal of her application, the application was dismissed in its entirety without liberty to reinstate.

Decision Contested or Judgment/Order Appealed

The Applicant filed an application contesting the Administration's decision to fill a P-5 level post in the Department of General Assembly and Conference Management ("DGACM") of the United Nations Secretariat without advertising the job vacancy for the said post.

Legal Principle(s)

Finality of disputes: The desirability of finality of disputes within the workplace cannot be gainsaid. 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. Res judicata: Once a matter has been determined, parties should not be able to re-litigate the same issue. An issue, broadly speaking, is a matter of fact or question of law in a dispute between two or

more parties which a court is called upon to decide and pronounce itself on in its judgment. The object of the res judicata rule is that “there must be an end to litigation” in order “to ensure the stability of the judicial process” (Meron 2012-UNAT-198). Judgment: Generally, a judgment involves a final determination of the proceedings or of a particular issue in those proceedings.

Outcome

Closed on withdrawal

Full judgment

[Full judgment](#)

Applicants/Appellants

Giles

Entity

UN Secretariat

Case Number(s)

UNDT/NY/2011/008

Tribunal

UNDT

Registry

New York

Date of Judgement

7 Dec 2012

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Procedure (first instance and UNAT)

Applicable Law

UNDT RoP

- Article 19
- Article 36

UNDT Statute

- Article 2
- Article 7

Related Judgments and Orders

UNDT/2010/047

UNDT/2010/074

UNDT/2011/104

UNDT/2011/202

2010-UNAT-026bis

2010-UNAT-063

2010-UNAT-066

2011-UNAT-129

2012-UNAT-198