



**Before:** Judge Ebrahim-Carstens

**Registry:** New York

**Registrar:** Nerea Suero Fontecha

GIULIANO

v.

SECRETARY-GENERAL  
OF THE UNITED NATIONS

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**ORDER ON WITHDRAWAL OF AN  
APPLICATION FOR SUSPENSION OF  
ACTION**

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**Counsel for Applicant:**  
Self-represented

**Counsel for Respondent:**  
Alister Cumming, ALS/OHRM, UN Secretariat

## Introduction

1. On Friday, 7 September 2018, the Applicant, Director at the P-5 Step 3 level with the United Nations Information Centre, Department of Public Information, based in Rio de Janeiro, Brazil, filed an application under art. 2.2 of the Dispute Tribunal's Statute and art. 13 of its Rules of Procedure seeking to suspend, pending management evaluation, "[t]he presumed decision by [the Office of Human Resources Management ("OHRM")] ... not to provide a solution, for a situation where [he] was unable to apply to three post-specific job openings ... due to a delay with Inspira's notifications". The Applicant contended that OHRM failed to provide a response to his request to have some job openings ("JOs") reopened on the grounds that he missed the deadlines for the advertised JOs as Inspira generated the alerts late, leaving candidates only 10 to 11 days to apply instead of the required 15 days.

2. The application was served on the Respondent on 7 September 2018 directing that a reply be filed by 4:00 p.m. on Tuesday, 11 September 2018, on which date the Respondent duly filed a reply, submitting, *inter alia*, that the application is moot and not receivable considering that the Applicant had received a response to his request from OHRM on 11 September 2018 confirming that the job openings would not be reopened and therefore the Applicant has been provided with the remedy he sought, i.e. a response to his request. Furthermore, the Respondent submitted that the Applicant was in effect requesting an order for specific performance, rather than a request for suspension of action, as he was seeking an order to compel the Administration to reopen closed job openings to allow him to apply. Finally, the Respondent submitted that in any event, the Applicant fails to satisfy the three conditions required for granting a suspension of action under art 2.2 of the Tribunal's Statute.

3. Subsequently, on the same day, the Applicant filed a notice of withdrawal of his application for suspension of action accepting the Respondent's argument on

receivability, but “not on the merits,” stating that he totally disagreed with the Respondent’s “comments on the merits”.

4. Since the Applicant has requested the withdrawal of his application, there is no longer any determination for the Tribunal to make on the application for suspension of action pending management evaluation. Whether the Applicant subsequently files an application on the merits is a separate matter for which he may seek legal counsel, the Tribunal having no or insufficient knowledge regarding the facts on the merits as is usual at this stage of such proceedings.

IT IS ORDERED THAT:

5. The Applicant having requested withdrawal of the application for suspension of action, there being no matter remaining for adjudication by the Tribunal, Case No. UNDT/NY/2018/035 is hereby closed.

*(Signed)*

Judge Ebrahim-Carstens

Dated this 13<sup>th</sup> day of September 2018