

TWENTY-FIFTH ORDINARY SESSION

SILOW v. ILO

Judgment No. 171

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the International Labour Organisation (ILO) drawn up by Mr. Ronald Alfred Silow on 14 August 1970 and the Organisation's reply of 5 October 1970;

Considering Article II, paragraph 1, and Article VI, paragraph 1, of the Statute of the Tribunal;

Having examined the documents in the dossier, the oral proceedings requested by the complainant having been disallowed by the Tribunal;

Considering that the material facts of the case are as follows:

A. Mr. Silow a former official of the International Atomic Energy Agency (IAEA) and of the United Nations Food and Agriculture Organization (FAO), has submitted to the Tribunal a complaint against "the International Labour Organisation and the ILO Administrative Tribunals for the operation of which the ILO is responsible to the member governments of those UN organisations which recognise the jurisdiction of the Tribunal". In his complaint he asks the Tribunal, in particular, to reopen proceedings with regard to two appeals formerly lodged by him with the Tribunal and drawn up against the IAEA and the FAO respectively, which formed the subject of Judgments Nos. 142 and 151 handed down by the Administrative Tribunal on 3 November 1969 and 26 May 1970 respectively. In his complaint Mr. Silow asks the Tribunal to:

"1. Consider this present appeal in oral public proceedings and declare the uncompleted proceedings in re the complainant's complaints against IAEA and FAO unconstitutional and/or invalid and its Judgments No. 142 and No. 151 quashed or null and void;

2. Decide, or order the Tribunal through the ILO, to consider the complainant's two complaints against IAEA and FAO in public oral proceedings in their entirety as submitted by the complainant, either in association with this present complaint or together with one another after considering this present complaint in oral public proceedings, all three complaints being dealt with in accordance with the Rules of Court of the Tribunal, with all requested witnesses present and with all requested documentation and information produced by IAEA and FAO, and the Tribunal taking fully into account all of the testimony submitted by the complainant in his three complaints;

3. Deal fully, in the Tribunal's published judgments, with each of the specific points raised by the complainant in this present complaint and in his two complaints against IAEA and FAO;

4. Adjudicate in the complainant's favour as requested by him under point 11 of the Form for Instituting Complaints in the complainant's complaints against IAEA (pages 9, 10, 11, 12 and 13) and against FAO (page 6a and its supplementary pages I and ii), and additionally in re this present complaint to award the complainant:

(a) his full costs in connection with his complaints against IAEA and FAO, and

(b) costs at the rate of 2,500 United States dollars per month from the date of his retirement commencing 1 March 1970 to the completion of the full hearings of the three complaints because of the need for the complainant to continue to carry on his complaints during his retirement through failure of the Tribunal previously to deal with them fully as presented and requested by the complainant, and

(c) any further costs for legal advice and representation that the complainant may incur, and

(d) compensation in the sum of 50,000 United States dollars for damage to the complainant through the incomplete versions of the complainant's complaints given in the Tribunal's Judgments No. 142 and No. 151."

B. The Organisation replies that Mr. Silow has never been an official of the International Labour Office and that consequently his complaint does not appear to be receivable under the terms of Article II, paragraph 1, of the

Statute of the Administrative Tribunal inasmuch as in the present case there has been no "non-observance, in substance or in form, of the terms of appointment of officials of the International Labour Office, [nor] of such provisions of the Staff Regulations as are applicable to the case", and there accordingly appears to be no need for the ILO to adopt any position with regard to the merits of the complaint.

C. On being informed, on 12 October 1970, by the Registrar of the Tribunal that the present complaint was placed on the roll of the 25th Session of the Tribunal, Mr. Silow applied, by a communication dated 14 October 1970, for adjournment of the case to a later session. In his reply of 27 October 1970 the Registrar informed the complainant that, acting by virtue of the power conferred on him by Article 9, paragraph 5, of the Rules of Court of the Tribunal between Tribunal sessions, the President had dismissed his application for adjournment.

CONSIDERATIONS:

The complaint of Mr. Silow, who was formerly an official of the International Atomic Energy Agency and of the United Nations Food and Agriculture Organization, is drawn up against the International Labour Organisation, an organisation of which he has never been an official. Such a complaint is not one which the Administrative Tribunal is competent to hear under the provisions of Article II of its Statute.

Furthermore, according to Article VI of the Statute, "The Tribunal shall take decisions by a majority vote; judgments shall be final and without appeal." Accordingly, if Mr. Silow is requesting the Tribunal to quash its earlier Judgments Nos. 142 and 151 of 3 November 1969 and 26 May 1970, his claims are irreceivable.

DECISION:

For the above reasons,

1. The claims brought against the ILO are dismissed inasmuch as they are submitted to a tribunal which is not competent to hear them.
2. The remainder of the complainant's claims is dismissed.

In witness of this judgment by Mr. Maxime Letourneur, President, Mr. André Grisel, Vice-President, and the Right Honourable Lord Devlin, P.C., Judge, the aforementioned have hereunto subscribed their signatures as well as myself, Bernard Spy, Registrar of the Tribunal.

Delivered in public sitting in Geneva on 17 November 1970.

M. Letourneur
André Grisel
Devlin
Bernard Spy