

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

*Registry's translation,  
the French text alone  
being authoritative.*

**A.**  
**v.**  
**UNESCO**

**124th Session**

**Judgment No. 3833**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms L. A. against the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 18 December 2014 and corrected on 20 January 2015, UNESCO's reply of 5 May, the complainant's rejoinder of 4 June and UNESCO's surrejoinder of 9 September 2015;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

Considering that the facts of the case may be summed up as follows:

The complainant challenges the rejection of her request for reclassification of her post.

In January 2003 UNESCO issued "The revised classification standard for posts in the General Service category". That standard was to serve as the basic working tool for the Job Evaluation Committee (JEC), which was responsible for examining the grade of posts in the General Service category on the basis of updated job descriptions, before making a recommendation to the Director-General on the classification of each post. In December 2003 a Job Evaluation Recourse Committee (JERC) was established to hear complaints submitted by

staff members against reclassification decisions taken on the basis of the revised standard.

At the material time, at the JEC's recommendation the complainant's post had been reclassified at grade G-7 with effect from 1 January 2003. On 26 February 2004 she asked for her case to be re-examined with a view to reclassification at grade P-3. On 3 November 2004 she was informed that, in line with the JERC's recommendation and following a desk audit, her post was being maintained at grade G-7. She then initiated an internal appeal. In the event, her case was re-examined before it was taken up by the Appeals Board, and on 23 December 2005 she was told that the Director-General had adopted a "special measure" whereby she would be awarded five additional steps with effect from 1 January 2006. Following that decision, the complainant announced that she was withdrawing her appeal to the Appeals Board but requested that the aforementioned measure be applied with retroactive effect from 1 September 2003, the date on which she stated she had "assume[d] the duties of [her] post". That request was rejected.

On 6 December 2007 the complainant asked for a desk audit of her post with a view to its reclassification. As her request was denied, she lodged a protest, which was dismissed on 11 June 2008.

On 29 March 2013 the complainant, who had recently been informed that her appointment could not be extended beyond the retirement age, lodged a protest with the new Director-General "contest[ing] the administrative decision to limit [her] [to grade G-7]". According to the complainant, that decision was evidenced by her pay slip for March 2013, and she asked the Director-General to "redress this injustice by reclassifying [her] [at grade P-3] with retroactive effect from 2003". In a memorandum of 7 May she was notified that her protest was irreceivable since her pay slip did not constitute a "challengeable decision on the classification of [her] post". On 21 May she lodged a new protest challenging the "decision not to reconsider the level of [her] post". In her detailed appeal of 10 September 2013, she requested promotion to grade P-3, if only on a personal basis, with retroactive effect from 2003. The complainant retired on 31 October 2013.

The Appeals Board issued its report in July 2014, having heard the parties. It observed that the complainant's post had undergone three successive evaluations – by the JEC and the JERC, then during the desk audit performed in 2004 – which had all classified it at grade G-7. Since the post had been abolished, it could not recommend that a new evaluation be carried out. The Appeals Board considered that the five additional steps should have been awarded with retroactive effect from the date on which the complainant had assumed supervisory duties, 1 September 2003. It hence recommended that she be awarded a sum equivalent to those five steps for the period 1 September 2003 to 31 December 2005.

In a letter of 23 September 2014, which is the impugned decision, the complainant was notified of the Director-General's decision to reject the recommendation of the Appeals Board. It was pointed out that the exceptional measure of awarding her five additional steps was not intended to “compensate [her] duties and responsibilities”.

The complainant asks the Tribunal to set aside the impugned decision and to order UNESCO to reclassify her post at grade P-3 with effect from 1 September 2003, or at the very least to award her, with effect from the same date, the additional steps that she had been granted from 1 January 2006 and to “readjust” her pension entitlements accordingly. Failing this, she claims the sum of 120,000 euros in compensation for the material injury that she alleges she has suffered. Lastly, she claims moral damages and costs.

UNESCO asks the Tribunal to dismiss the complaint as irreceivable on the ground *inter alia* that the complainant's pay slip for March 2013 is not a challengeable administrative decision. In the alternative, it requests that the complaint be dismissed as unfounded.

## CONSIDERATIONS

1. The instant case raises a threshold question of whether the complaint is receivable.

2. The pay slip of March 2013 challenged by the complainant can indeed be viewed as a decision adversely affecting her under the Tribunal's case law. Indeed, established precedent has it that pay slips are individual decisions that may be challenged before the Tribunal (see, for example, Judgments 1798, under 6, and 3614, under 7).

3. However, as UNESCO rightly points out, the complainant cannot rely on a challenge to her pay slip of March 2013 to dispute the lawfulness of an individual decision that has become final (see Judgment 2823, under 10, and the aforementioned Judgment 3614, under 7). In the present case, although the complainant challenges the decision to maintain her post at grade G-7, the written submissions make plain that she was notified of that decision on 3 November 2004 and that it had become final when she challenged her pay slip of March 2013. Her indirect challenge to the lawfulness of that decision is hence irreceivable.

4. It follows that the complaint must be dismissed.

#### DECISION

For the above reasons,  
The complaint is dismissed.

In witness of this judgment, adopted on 28 April 2017, Mr Claude Rouiller, President of the Tribunal, Mr Patrick Frydman, Judge, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 28 June 2017.

*(Signed)*

CLAUDE ROUILLER      PATRICK FRYDMAN      FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ