

FORTY-FIRST ORDINARY SESSION

***In re* LEVEUGLE and BERNEY**

Judgment No. 355

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaints brought against the International Labour Organisation (ILO) by Mrs. Marie-Josèphe Leveugle and Mrs. Mara Berney on 23 September 1977 and brought into conformity with the Rules of Court on 21 October 1977, the ILO's replies of 30 January 1978, the complainants' rejoinders of 14 April and the ILO's surrejoinders of 13 July 1978;

Considering that the complaints relate to the same matters and should therefore be joined to form the subject of a single decision;

Considering Article II, paragraph 1, and Article VII of the Statute of the Tribunal and the Staff Regulations of the International Labour Office, particularly Articles 1.9, 2.4, 3.7, 3.8 and 13.2;

Having examined the documents in the dossier and disallowed the complainants' application for oral proceedings for the hearing of witnesses;

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

A. Mrs. Leveugle, who was then Miss Contat, joined the staff of the Office on 1 July 1957 on an appointment of indeterminate duration. She was at first employed in the Editorial and Translation Division and then, on 20 April 1965, transferred at grade P.2/P.3 to the Conference Services Branch, where she remained until 31 December 1974 - in other words, says the ILO, throughout the material period.

B. Mrs. Berney, who was then Miss Safyurtlu, joined the staff of the International Labour Office on 1 April 1965 on a contract of indeterminate duration. She was assigned at grade P.2/P.3 to the Conference Services Branch and stayed there until 31 December 1974 - again, according to the ILO, throughout the material period.

C. The Office as a whole, including the Conference Services Branch, was reorganised. A new unit was set up at the beginning of 1975 called the "Interpretation and Staffing of Meetings Unit". It was headed by the chief interpreter and consisted of several translator-interpreters, including the two complainants.

D. In 1974 the Office carried out an exercise for the grading of Professional category posts. The complainants had their posts graded P. 3 and were so informed. In January 1975 they appealed to the Professional Grading Appeals Committee. The Committee heard their appeals on 14 March 1977 and recommended the Director-General to confirm the grading of their posts. The Director-General endorsed that recommendation and the complainants were so informed by letters of 28 June 1977 - the decisions they now impugn.

E. The complainants argue that the Director-General based his decision on a mistake of fact and drew false conclusions from the facts because, although most of their work is interpretation, not translation, it is the translation that has determined their grading. They also allege inequality of treatment on the grounds that another official, Mr. Puysegur, who is also an interpreter, is graded P.4 whereas they are graded P.3. The complainants' claims for relief are identical. They ask the Tribunal to quash the Director-General's decisions of 28 June 1977; to declare that they are interpreters, being taken up with interpretation for over 80 per cent of their time from 1974 and over 90 per cent since 1975; to find that the work of an interpreter, like Mr. Puysegur, is graded P.4; to declare that the grading officer classified their posts by reference to their translation work alone, which accounted for not more than 10 per cent of their time; accordingly to ask the Director-General to grade them P.4 with retroactive effect from 1 January 1975; and to award them a fair amount as costs. In their rejoinders they further ask that, should the Tribunal allow their claims, interest should be payable at the standard rate on the arrears of financial benefits due to them on 1 January 1975, from the dates on which those benefits fell due, and also on any sum falling due since 1 January

1975, less the sums paid to the complainants in the form of interpretation allowances.

F. The ILO contends that the complaints are based on two misconceptions and that each of the claims for relief in the complaints should be dismissed. It argues:

"(i) The claim for the quashing of the Director-General's decision of 28 June 1977 should be dismissed for the following reasons:

(a) The claim is without purpose, in so far as it is concerned with a new situation which arose from the reorganisation of the Office and which has not formed the subject of further review.

(b) It is irreceivable because the internal means of redress were not exhausted. The plea that the complainants' interpretation work was not taken into account in the grading was not put to the competent internal bodies.

(c) The Tribunal is not competent. If it allowed the appeal it would be giving an opinion on the correctness of one grading system rather than another.

(ii) The Tribunal is not competent to declare that the complainants hold interpreters' posts. If it made such a declaration it would be commenting on matters of internal organisation and on the distribution of work between members of the Office staff.

(iii) There are no grounds for allowing the request that the Tribunal should declare that the work of an interpreter is P.4 work. Such work is not given any particular grade and Mr. Puységur's post is graded P.3, not P.4.

(iv) The application for a declaration that in the grading account was taken only of the complainants' translation work is not contested, is pointless and should therefore be disallowed.

(v) The Tribunal is not competent to ask the Director-General to grade the complainants P.4 and should dismiss the claim to that effect. Even if it quashed the Director-General's decision, the grade of the posts could be determined only by further evaluation which the Tribunal would not hold itself competent to make."

The Organisation therefore asks the Tribunal to dismiss the complaints.

CONSIDERATIONS:

There is no need to consider the plea for dismissal put forward by the ILO and the complainants' other claims.

It is immaterial that Mr. Puységur, who performed the same duties as the complainants, holds the personal grade of P.4. The reason why he is so graded is not that he does no translation work but simply that he has been P.4 since 1972, in other words since before the reorganisation of 1975.

Mrs. Leveugle joined the Office staff in 1957 and Mrs. Berney in 1965 as translators. In that capacity they were given interpretation work, were graded P.3 and for such work were paid a special allowance. As a result of a reorganisation of the Office in 1975 they were transferred to a new unit, the Interpretation and Staffing of Meetings Unit, and put under the authority of the chief interpreter.

The complainants wish to be graded P.4 on the grounds that since being transferred to the new unit they have been mainly taken up with interpretation and so the nature of their duties has substantially changed.

They further contend that the grading of their posts does not now correspond to their actual duties and should be reviewed.

That contention may not be submitted directly to the Administrative Tribunal. It should first be put to the Director-General, who will take a decision as prescribed in circular No. 108 of 24 February 1975.

DECISION:

For the above reasons,

1. Mrs. Leveugle and Mrs. Berney are referred back to the Director-General for possible review of the grading of

their posts.

2. Their other claims are 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, Morellet, Registrar of the Tribunal.

Delivered in public sitting in Geneva on 13 November 1978.

(Signed)

M. Letourneur
André Grisel
Devlin

Roland Morellet