

EIGHTH ORDINARY SESSION

In re ELLEN KAHAL

Judgment No. 45

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the World Health Organization drawn up by Mrs. Ellen E. Kahal on 18 November 1959, brought into conformity with the Rules of Court on 26 November 1959, and the Organisation's reply dated 28 April 1960;

Considering Article VII of the Statute of the Tribunal;

Having heard Mr. Jean-Flavien Lalive, counsel for the complainant, and Mr. A. H. Zarb, agent for the Organisation, in public sitting on 8 September 1960;

Considering that the pertinent facts at issue are the following:

A. After the termination of the employment of complainant for health reasons, which took place on 18 May 1959, complainant made various requests and complaints to the Organisation concerning, *inter alia*, alleged errors in the calculation of the number of days of sick leave granted to her, and of the period of notice of termination. These requests were reiterated in a letter to the Director-General of 6 July 1959.

B. Owing to the language in which the communications of complainant and her husband to the Director-General were couched, the Legal Adviser of the Organisation informed complainant by a letter of 23 October 1959, by which date the complainant had ceased to be a member of the staff, that no useful purpose would be served by continuing to correspond with her except as regards matters in issue before the Board of Inquiry and Appeal or the Advisory Committee on Compensation Claims. He added that any matters which complainant considered to remain in issue between herself and the Organisation would have to be referred by her directly to the bodies created under the Staff Regulations and Rules for the purpose of hearing disputes between the Organisation and its staff, in accordance with the rules of procedure drawn up for that purpose.

C. The complaint of 18 November 1959 is directed against the legal adviser's letter cited above and prays the Tribunal to meet as soon as possible to consider the said complaint, to take a decision that would enable the complainant to leave Geneva as quickly as possible, to grant to her in so far as is possible compensation for legal expenses and to order the Director-General to comply with her request of 6 July 1959 concerning leave on half pay which she wished to receive because her medical treatment was not concluded and she contested the date of termination of her employment.

IN LAW

1. According to paragraph 1 of Article VII of the Statute of the Tribunal it is clear that a complaint shall not be receivable unless it is directed against an act that is in the nature of a decision.

2. The letter of 23 October 1959 from the Legal Adviser of WHO merely informed Mrs. Kahal that at that stage of the proceedings the Organisation thought that no useful purpose would be served by continuing to correspond with her on any matters relating to her case except in so far as such correspondence related directly to the claims pending before the Board of Inquiry and Appeal and the Advisory Committee on Compensation Claims. There is nothing in that letter adversely affecting the rights of Mrs. Kahal; consequently, it does not constitute an administrative decision that can be brought in issue before the Tribunal and the complaint is, at all events, not receivable.

DECISION

The above-mentioned complaint is rejected as not receivable.

In witness of this judgment, delivered in public sitting on 13 September 1960 by the Rt. Hon. Lord Forster of Harraby, K.B.E., Q.C.; President, Mr. Maxime Letourneur, Vice-President, and Mr. André Grisel, Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Lemoine, Registrar of the Tribunal.

Signatures:

Forster of Harraby
M. Letourneur
André Grisel
Jacques Lemoine

Updated by SD. Approved by CC. Last update: 30 May 2008.