

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

SEVENTY-FOURTH SESSION

Judgment 1221

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mrs. M. E. A. de S. D. de N.-L. against the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 7 May 1992, UNESCO's reply of 10 July, the complainant's rejoinder of 18 September and the Organization's surrejoinder of 16 November 1992;

Considering the second complaint filed by Mrs. A. de S. D. against UNESCO on 7 May 1992, UNESCO's reply of 10 July, the complainant's rejoinder of 25 September and the Organization's surrejoinder of 23 November 1992;

Considering the third complaint filed by Mrs. A. de S. D. against UNESCO on 7 May 1992, UNESCO's reply of 10 July, the complainant's rejoinder of 28 September and the Organization's surrejoinder of 23 November 1992;

Considering Articles II, paragraph 5, and VII, paragraph 1, of the Statute of the Tribunal, UNESCO Staff Regulations 2.1 and 10.2, UNESCO Staff Rules 102.2, 103.17, 104.1, 104.11 bis (d), 110.2 and 111.2(b), UNESCO Manual items 2320.I and 3005 and paragraphs 6 and 7(a) of the Statutes of the UNESCO Appeals Board;

Having examined the written submissions and disallowed the complainant's application for hearings;

Considering that the facts of the case and the pleadings may be

summed up as follows:

A. The complainant is a citizen of the Argentine who was born in 1938. On 15 September 1981 UNESCO took her on as an assistant programme specialist at grade P.2 in the Division of Human Rights and Peace (HRS) of the Social Sciences Sector (SHS). It converted her temporary appointment to a two-year fixed-term one and renewed it several times, up to 31 March 1992. On 1 July 1990 it upgraded her post and promoted her to P.3. At the material time she was at step 4 in that grade. Her performance reports from 1981 to February 1990 show that her work and conduct were highly satisfactory.

Towards the end of 1990 there were changes in the staff and programme of SHS. On 23 January 1991 the new Director of HRS wrote to the complainant asking why she was refusing to write a paper for the General Conference, attend division meetings, and in general obey orders. Since she did not reply the Director so informed the Assistant Director-General in charge of SHS. The Assistant Director-General saw her on 4 February 1991 and warned that her attitude might have serious consequences. Her answer was that she would continue not to carry out her duties and wanted a transfer. The Assistant Director-General in turn informed the Deputy Director-General in charge of Management.

In a memorandum of 21 March 1991 the complainant again applied for a transfer. The Assistant Director-General replied on 2 April that she could have one only if there was a suitable vacancy, and if on inquiry the Bureau of Personnel found the criticisms of her to be warranted she would be liable to disciplinary action.

By a memorandum of 11 April 1991 to the Assistant Director-General the Director of HRS confirmed that she had been neglecting her duties and that he was intending to give her work

under the programme relating to UNESCO's contribution to peace, human rights and the elimination of all forms of discrimination and to split responsibility for the Special Programme on Apartheid between several officials. By a memorandum of 6 June the Assistant Director-General asked her to comment. On 18 June she wrote to the Bureau of Personnel complaining that she had never seen the memorandum of 11 April. On 28 June she was given a copy. On 12 July she protested to the Director-General under paragraph 7(a) of the Statutes of the UNESCO Appeals Board on the grounds that the Director of her division was intending to make substantial changes in her duties and the level of her responsibilities. On 31 July she sent her observations on the memorandum of 11 April to the Director of the Bureau of Personnel. Having got no reply to her protest within the one-month time limit provided for in paragraph 7(a) she lodged an appeal with the Board on 12 August.

On 30 September 1991 the Director of HRS signed a report on her performance from 1 April 1990 to 31 October 1991. She herself signed it on 7 October but said that she would be challenging it under Rule 104.11 bis (d). She was refused a step increment on 2 October, and on 21 October lodged an appeal with the Reports Board against both the report and the refusal of the increment.

In the belief that her constant recalcitrance had brought about a stalemate the Organization decided to terminate her appointment for serious misconduct. By a memorandum of 19 November 1991 the acting Director of the Bureau of Personnel told her that the memorandum of 11 April from the Director of HRS was not a decision open to challenge under the Statutes of the Appeals Board and that it had been decided to dismiss her summarily as from 31 December 1991 under Regulation 10.2. The same day she wrote to the Director-General protesting against that decision under paragraph 7(a) of the Statutes of the Appeals Board.

By a memorandum of 6 December 1991 the acting Director of the Bureau of Personnel told her that the Director-General was upholding his decision to dismiss her summarily for serious misconduct and gave her leave to appeal directly to the Tribunal in accordance with Rule 111.2(b) and paragraph 6 of the Board's Statutes.

By a memorandum of 16 December she informed the Director-General that she intended to challenge under the internal appeals procedure her performance report, the refusal of her increment and her summary dismissal. By a memorandum of 10 January 1992 the Director of the Bureau of Personnel told her on the Director-General's behalf that her dismissal was final, that her appeal failed and that her objections to her performance report and to the refusal of the increment served no further purpose. The reply of 3 February to a letter from her of 9 January was that the Director-General authorised her to address her claims directly to the Tribunal though he considered them futile because she was leaving anyway.

B. (1) In her first complaint the complainant is objecting to the changes in her duties and in the level of her responsibilities for the biennium 1992-93 as set out in paragraph 8 of the Director of HRS's memorandum of 11 April 1991. She sees that memorandum as downgrading her and therefore as an administrative decision causing her injury.

She submits that the reason why her post was upgraded to P.3 was that she was helping the then Deputy Director of HRS to carry out the Special Programme on Apartheid and was to keep it going after the Deputy Director left. The draft programme and budget for 1990-91 allotted a large sum to finance her work whereas the one for 1992-93 cut it drastically. Putting her back on the job she had been doing from 1978 to 1989 was tantamount to downgrading her. The Director of HRS said in paragraph 2 of

the memorandum of 11 April that she was not being taken off the project or given any new duties but in paragraph 8 lowered the level of her responsibilities in breach of Regulation 2.1 and Rule 102.2.

The complainant pleads procedural flaws. In her submission the memorandum of 11 April was written by a secretary, not by the Director of HRS; the Administration confirmed the impugned decision before getting the Appeals Board's report; it notified that confirmation to her at the same time as her dismissal; and its sole purpose in letting her go straight to the Tribunal was to bar her from the internal appeals procedure.

She seeks the quashing of the impugned decision; a redefinition of her post or, failing that, transfer or secondment; damages for moral and professional injury; and costs.

(2) In her second complaint she observes that having been taken off the apartheid programme she applied for transfer when she saw the acting Director of the Bureau of Personnel on 17 January 1991. She was then put in charge of work that was usually done by senior officers. She therefore asked for a proper description of her duties and in accordance with UNESCO Manual item 2320.I.9 for the Bureau of Personnel's permission that she take on the responsibilities the former Deputy Director of the Division had been discharging until retirement in October 1990. Only then did her supervisors accuse her of neglecting her duties and threaten disciplinary action. The Assistant Director-General in charge of SHS threatened her with poor performance reports at their meeting on 4 February 1991 and did not give her her say. The inquiry referred to by the Deputy Director-General never took place: the charges against her were never looked into and her responsibilities never defined, though they ought to have been in November 1990. Not until July 1991 did she see the memorandum of 11 April 1991 from the Director of HRS and the appendices thereto and only then because she asked.

She alleges that she was discriminated against, essential facts such as her good ten-year record were overlooked, the sanction she suffered was disproportionately severe and there were procedural flaws.

The memorandum of 19 November 1991 notifying her dismissal also refers to the dispute over her future assignment. She had put it to the Appeals Board and it was still pending. The memorandum did not say who had taken the decision to dismiss her on the grounds of refusal to carry out her "prescribed duties", nor what those duties were. According to the work plan for 1991 and the two memoranda signed by the Director of HRS on 11 April and 3 September 1991, she was to be put in charge of all work relating to apartheid and racial discrimination, which meant that over and above her regular duties she was to take on the work of the retired Deputy Director. Formerly she had filled in only during that Deputy Director's absences. According to Manual item 2320.I.11 an official may refuse to perform the duties of a more highly graded post. For all her efforts to get the competent departments to look into the matter, the Organization never did so.

The ombudsman did nothing to help her; the procedure for challenging her performance report and the refusal of the step increment was not followed; no senior personnel advisory board reported under Rule 104.1 nor a joint disciplinary committee under Rule 110.2; nor was she able to state her case to the Appeals Board. It was unfair to suggest that she should go straight to the Tribunal when she had made it plain formally and in writing that she wanted first to exhaust the internal means of redress.

She seeks the quashing of the decision of 19 November 1991, reinstatement as from 1 January 1992, any consequential redress and moral and material damages or, failing reinstatement,

damages in an amount equivalent to six years and ten months' salary and, in any event, moral damages in a suitable amount and costs.

(3) In her third complaint she challenges her performance report and the refusal of her step increment. She points out that reports on her performance from November 1981 to February 1990 were all good. The trouble started when someone new took over as Assistant Director-General in charge of SHS and there were changes in HRS. Though she asked time and again for a description of her duties her new supervisors never produced one. It was a secretary, not her supervisors, who wrote and handed over her performance report and the notice of refusal of her increment. She signed them on 7 October but stated that she intended to protest, and she did so on 21 October in a memorandum to the chairman of the Reports Board. She objects to the lack of provision for her work in the programme and budget and submits that her report comments on assignments she was never given.

She asks that her performance report and the decision to withhold her step increment be set aside and struck from her records. She claims the grant of step 5 in her grade, P.3, as from 1 December 1991, damages for moral and professional injury and costs.

C. (1) In its reply to her first complaint UNESCO argues that the memorandum of 11 April 1991 is not a "decision" within the meaning of Article VII(1) of the Tribunal's Statute. It is just an explanation in answer to the Bureau of Personnel's enquiry as to whether what she was doing matched her post description. Paragraph 8 refers to a plan to divide responsibilities for 1992-93 and did not amount to an administrative decision since the General Conference had first to adopt the draft programme and budget for 1992-93. The complaint is irreceivable *ratione materiae* because what it challenges is just a statement of intent

and because the claims are wider in scope than those the complainant made in her written protest of 12 July 1991 to the Director-General.

She sought leave from the Director-General to go straight to the Tribunal; how does that square with taking him to task for barring her from the internal appeals procedure?

The Organization's pleas on the merits are subsidiary. It contends that the Director of HRS never contemplated making her do work she was not qualified for, that her future duties matched her post description, and that there was no question of any downgrading.

The complainant offers no evidence of discriminatory treatment or of flaws in the "decision" of 11 April 1991. The Director of HRS did sign the memorandum.

(2) The Organization replies that the second complaint is irreceivable because the complainant's claims are not the same as those she made in her appeal of 19 November 1991 and there was no prior administrative decision on them.

On the merits it submits that her insubordination amounted to serious misconduct warranting summary dismissal under Regulation 10.2:

"The Director-General may impose disciplinary measures on staff members whose conduct is unsatisfactory. ... the Director-General may summarily dismiss a member of the staff for serious misconduct."

Moreover, Paragraphs C and D of UNESCO Manual item 3005 read:

"C. The [Director-General] imposes no sanctions without hearing

the person concerned or studying his comments. If the file submitted to Director [of the Bureau of Personnel] by the supervisors contains no statement by the staff member involved, Director [of Personnel] asks him to explain his conduct in writing for the information of the [Director-General].

D. Written censure and summary dismissal may be decided upon by the [Director-General] without requiring the opinion of a joint disciplinary committee. ..."

The Organization contends that summary dismissal does not require prior consultation of a Joint Disciplinary Committee when the misconduct is blatant or its own interests demand that the employee leave for good and at once. The complainant was insubordinate from 1 January 1991 onwards in that she [Director-General] orders or account for her behaviour. The memorandum of 19 November 1991 from the acting Director of the Bureau of Personnel said that the Director-General had ordered that she be told of the decisions. She must have known that the term "prescribed duties" in that memorandum meant everything she had been required to do and that the person who had prescribed them was her supervisor, the Director of HRS. Her refusal for nine months to perform her duties and explain why afforded sufficient grounds for summary dismissal, and so there was no need to consult a joint disciplinary committee beforehand.

There was no mistake of law. Manual item 2320.I is about the payment of an allowance for temporary performance of the duties and responsibilities of a higher post, and there is nothing in the item that entitled her to refuse work she had been doing before when her former supervisor was away. She should have applied for a reclassification of post under Rule 102.2(b). Besides, according to the memorandum of 11 April 1991 her duties did match her post description.

There was no mistake of fact either, and she offers no evidence

of any. No essential facts were overlooked, and she has only herself to blame if she did not get her say since it was she who repeatedly refused to explain her attitude.

(3) In its reply to the third complaint the Organization observes that she did not do a stroke of work after January 1991 and her performance report merely reflected her repeated refusal to obey orders, attend division meetings and give the explanation of her behaviour she was asked for several times. There was no formal or substantive flaw in the decision to withhold her step increment. The Director-General took it in the exercise of his discretion in the Organization's interests, and with due regard to all the material facts. Her claim to damages is irreceivable because it is a new one and irrelevant to the third case anyway.

D. In her rejoinders the complainant enlarges on her pleas on her three complaints:

She submits that the Organization is confusing the first one, which deals only with the definition of her duties in paragraph 8 of the memorandum of 11 April 1991, with the second, which challenges her dismissal.

In the context of the second one she again maintains that she was discriminated against: the duties that had been hers since she joined UNESCO were transferred to men in higher posts who benefited from the results of her work.

The complainant recounts what she did in 1991 and refutes the charge of neglect of duty. The memorandum of 31 January 1991 from the Director of HRS to the Assistant Director-General in charge of SHS - which she did not see until July - states that she had not been working for three weeks. But she was on mission from 9 to 14 December 1990 and on sick leave from 19 December 1990 to 13 January 1991. The Assistant Director-General refused to discuss her application for transfer with her.

She cannot understand why her supervisors failed to define her duties for 1991 yet provided her with a definition for 1992-93 that downgraded them.

The Organization should have tried to find out why someone who had served responsibly and well for nine years suddenly started behaving differently. If it had suspended her from duty pending the outcome of the inquiry it would not have taken such an unfair decision. The dispute could certainly have been settled by following the internal appeals procedure, but the Organization would not allow that.

The complainant submits that summary dismissal should be an exceptional measure imposed only in cases of emergency and when misconduct is proven. But she herself was dismissed not because of misconduct but to prevent her from exhausting the internal remedies. The Organization cited its own interests wrongly and ex post facto so as to warrant it.

As to the claims that did not form part of her internal appeal of 19 December 1991 she points out that at the time she was still a staff member of UNESCO and could not therefore seek reinstatement. But she did point out to the Organization that her dismissal was causing her moral and professional injury and that her memorandum was a protest under paragraph 7(a) of the Appeals Board's Statutes. She did not ask for leave to go to the Tribunal but in the end gave in to the Director-General's suggestion out of sheer weariness.

As to the mistake of law she submits that it is not for directors of division but for the post classification division of the Bureau of Personnel to determine whether work assignments match the post description. Manual item 2320.I is about the special post allowance for the temporary performance of duties of a higher-grade post. Her case is covered, not by Rule 102.2(b), but by Rule 103.17.

She enlarges on her pleas in the rejoinder on her third complaint. She gives a detailed account of all that she was doing at the material time and says that the atmosphere in her division was bad. It was never her intention to waive her internal right of appeal, and it was on the Director-General's suggestion that she went straight to the Tribunal. An appeal to the Reports Board would have revealed that the dispute began on 23 January 1991, when she told the Assistant Director-General that she wanted to get out of SHS.

E. In its surrejoinders the Organization enlarges on its pleas on her three complaints.

It further contends that the first one is irreceivable because there is no challengeable administrative decision and because she makes new claims which she put for the first time to the Appeals Board. Subsidiarily, the Organization maintains that it may define and alter the duties of staff in its own interests.

The Organization does not press its objections to the receivability of the second complaint. It seeks to show that the complainant shirked duty for some nine months and refused to explain her conduct to her supervisors. It maintains that her dismissal was lawful, the decision being taken in its interests and in line with the material rules and relevant case law.

The Organization does not challenge the receivability of the third complaint either. It submits that the complainant's appeal of 16 December 1991 against her performance report and against the refusal of a step increment was irrelevant because the decision to dismiss her for serious misconduct had become final on 6 December. It appends a letter from the secretary of HRS denying that she drafted the complainant's performance report.

CONSIDERATIONS:

1. UNESCO used to employ the complainant as a P.3 official in its Social Sciences Sector (SHS). She was holding a fixed-term appointment that was to end at 31 March 1992 when it dismissed her for serious misconduct at 31 December 1991. Of her three complaints one challenges the definition of the duties of the post she held, another her dismissal, and the third and last one a decision of 10 January 1992 not to review her performance report for 1990-91 and not to grant her a step increment.

Since all three are about the personal status of one official and the disputes arose out of the same facts, her application for joinder is allowed. Nevertheless, although the factual background is common to all three, and one of the Organization's pleas - that the Appeals Board ought to have heard the cases - calls for a single ruling, each complaint will be taken up separately.

2. The Organization appointed the complainant to its staff in 1981 after periods of service under internships and consultancy appointments. On 1 April 1982 she was granted a fixed-term appointment for two years. She had it renewed four times. She was put on a post, SHS/118, in the Human Rights and Peace Division (HRS) in SHS. Her supervisors' reports on her performance were highly satisfactory until the end of 1990 and at 1 July of that year she was promoted to grade P.3. On her return from mission to Geneva in December 1990 she was put on sick leave. She went back to work on 14 January 1991.

Staff movements affecting HRS at the end of 1990 prompted her to wonder, and indeed to ask her supervisors, what her duties, responsibilities and career prospects were to be. On 16 January 1991 she wrote to the Director of the Division to say that he must get someone else to draft a paper for submission to the 26th General Conference of UNESCO about action on a resolution for the application of the Declaration on Race and Racial Prejudice:

"I shall not be there to write it", she explained.

On 23 January 1991 she was called upon to account for her disobliging attitude and to say why she was not opening her mail, had missed two division meetings and was refusing to perform her duties. She did not answer. Instead she announced orally to the Assistant Director-General in charge of SHS that she wanted to leave the Sector. By a memorandum of 13 March 1991, of which she was sent a copy, the Assistant Director-General told the Deputy Director-General in charge of Management that she intended to go on refusing to perform her duties and that she had been fully warned of what might happen if she did so. On 21 March she applied urgently for transfer on the grounds that her post no longer served any purpose. By a memorandum of 2 April she was told that that matter would be looked into, that she could be transferred only if there was a suitable vacancy, that if on inquiry the Bureau of Personnel found her to be in wilful dereliction of duty the consequences would be serious, and that if she continued to disobey her supervisors disciplinary proceedings would be brought against her.

The Bureau of Personnel asked whether the duties she was refusing to perform were in her post description. In a memorandum of 11 April 1991 the Director of HRS took stock and in paragraph 8 said that she might be given several duties, which he identified. The Organization asked the complainant to comment on the memorandum, and it is the text of paragraph 8 that she challenges in her first complaint.

From then on things went from bad to worse. Since her appointment was soon to expire the Bureau of Personnel took steps to have a report made on her performance and on her entitlement to a step increment. In their report her supervisors said that she had done no work since January. On 7 October 1991 she signed the report but said she intended to challenge it. She did so, and continues to do so in her third complaint.

Lastly, on 19 November 1991 the Bureau of Personnel notified to her two decisions by the Director-General: her protest against paragraph 8 of the memorandum of 11 April 1991 was dismissed and, since her attitude was deemed to constitute serious misconduct, she was summarily dismissed under Regulation 10.2. That is the decision impugned in her second complaint, the most important of the three.

The waiver of Appeals Board proceedings

3. The complainant contends that she never intended to waive her right of appeal to the Appeals Board. She seems thereby to be accusing UNESCO of having prevented her from exhausting the internal means of redress.

She is mistaken. Rule 111.2(b) reads:

"... a staff member may, in agreement with the Director-General, waive the jurisdiction of the Appeals Board and appeal directly to the Administrative Tribunal. In such cases the decision impugned shall be considered as final, and the staff member shall be deemed to have exhausted all other means of resisting it."

It is plain on the evidence that the Bureau of Personnel told the complainant that the Director-General would be willing to waive the Appeals Board's jurisdiction if she so wished, that she expressly agreed to the suggestion, and that she formally sought and was granted waiver by the Director-General. It was she herself who asked whether the Bureau of Personnel's suggestion related only to her appeal against dismissal or to the other two as well. It was on the strength of that inquiry that the Director-General quite properly consented, by a letter of 3 February 1992, to her appealing directly to the Tribunal, and she did so in full freedom.

The complainant's duties

4. First comes her appeal against paragraph 8 of the memorandum of 11 April 1991, which she says altered the duties of her post SHS/118. Besides the striking out of that text she wants a new definition of her duties in line with those she was performing in 1990 and, subsidiarily, transfer or secondment, and a fair amount in damages.

As the Organization contends, her challenge to paragraph 8 of the memorandum is irreceivable. A staff member may challenge a text only if it amounts to a decision and affects him adversely. As was explained above, the memorandum was in answer to the Bureau's question as to whether the complainant's duties were as set out in her post description. All that the Director of HRS did in paragraph 8 was to suggest drafting a description of the duties of post SHS/118 for the purpose of carrying out the programme which was the Organization's contribution in 1992 and 1993 to peace, human rights and the elimination of all forms of discrimination. At the outset the complainant herself made no mistake about that since in her written protest she described the paragraph as a proposal by the Director for radical change in her duties and responsibilities. The fact of the matter is that no decision was taken and her claim to the striking out of the paragraph cannot be entertained.

Her claim to redefinition of her duties and her subsidiary claims to transfer or secondment also fail. There is no need to rule on the Organization's objections to their receivability. The Administration never forced the complainant to perform duties other than those in the description of her post. It is bound neither to amend the duties of staff to suit their own wishes nor, for that matter, to grant their applications for transfer, provided that its decisions are not prompted by considerations irrelevant to its own interests.

Since the decisions the complainant objects to show no flaw, the

claims fail, and so too does her claim to damages.

The performance report and step increment

5. Next comes her third complaint, the one against her performance report for the period from 1 April 1990 to 31 October 1991 and against the refusal of step increment.

As the Organization acknowledges in its rejoinder, this complaint is receivable. Her claims do still serve a purpose, even though she was dismissed at 31 December 1991, since the lawfulness of the report and of the decision on her increment may be material to the lawfulness of her dismissal.

But the complaint is devoid of merit.

First, the report, including the assessment of her it contains, bears the signature of her supervisor, and she is mistaken in contending that he improperly delegated his authority. There is no need to allow her application for an expert inquiry on that account.

Secondly, although the procedure probably did not comprise talks with her of the kind the guidelines on reporting recommend, her attitude since the beginning of 1991 was plainly such that she had more or less broken off all dealings with her supervisor.

Thirdly, the assessment of her shows neither any mistake nor abuse of authority. As the defendant maintains, and as the complainant does not seriously deny, she refused to work and was guilty of blatant insubordination in the nine months before the report was made. Although her supervisor was therefore unable to report on her performance in 1990, which had been much better, her behaviour in the second part of the report period compelled the reporting officer to give her a highly unfavourable

assessment on the whole. Since she has shown no significant mistake in that assessment and since the Tribunal exercises only a limited power of review over administrative decisions of that kind, her claims under this head must fail.

The dismissal for serious misconduct

6. Her second complaint challenges her summary dismissal by the Director-General.

According to Regulation 10.2 the Director-General may "summarily dismiss a member of the staff for serious misconduct", and he need not refer such a case to the Joint Disciplinary Committee. The complainant's constant insubordination from January 1991 onwards did undoubtedly amount to serious misconduct. But, even though it is lawful not to bring in the Committee in such circumstances, the staff do not forfeit all the safeguards of the international civil service when they are to incur disciplinary sanctions. One such safeguard is their right to plead their case. The authority competent to impose the sanction has a duty to warn the staff member in clear terms of the intention of doing so and invite an answer whatever charges may lie.

The Organization did ask the complainant several times to explain herself and on 2 April 1991 actually threatened her with disciplinary action if she continued to be insubordinate. But the intention it then disclosed was not fulfilled. Several months later there came the Director-General's decision, and it was notified to the complainant at the same time as the rejection of her written protest against the alleged change in her duties. There had been neither any prior conversation with her, nor any clear statement that disciplinary proceedings had actually been brought against her. The conclusion is that the impugned decision must be set aside, there being no need to entertain her other pleas.

7. The complainant's appointment expired on 31 March 1992 and there was no reason why the Organization should renew it. In the light of all the material circumstances, including her behaviour, the Tribunal disallows her claim to reinstatement. It also rejects her subsidiary claim to damages equivalent to six years and ten months' salary, but awards her damages equivalent to the amount of salary and allowances she would have been paid from 1 January to 31 March 1992. The quashing of the impugned decision and that award afford fair redress for the moral injury she alleges.

DECISION:

For the above reasons,

1. The Director-General's decision of 19 November 1991 summarily dismissing the complainant is set aside.
2. UNESCO shall pay the complainant damages equivalent to the salary and allowances she would have been paid from 1 January to 31 March 1992.
3. It shall pay her 10,000 French francs in costs for her second complaint.
4. Her first and third complaints and the other claims in her second complaint are dismissed.

In witness of this judgment Miss Mella Carroll, Judge, Mr. Pierre Pescatore, Judge, and Mr. Michel Gentot, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 10 February 1993.

(Signed)

Mella Carroll
P. Pescatore
Michel Gentot
A.B. Gardner