

## TWENTIETH ORDINARY SESSION

### ***In re* PANNIER**

#### **Judgment No. 124**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the United Nations Educational, Scientific and Cultural Organization (UNESCO) drawn up by Mr. Jacques Pannier on 20 September 1967 and corrected on 30 October 1967, the Organization's reply of 15 December 1967, complainant's rejoinder of 12 January 1968, and the reply of UNESCO to that rejoinder dated 19 February 1968, the Tribunal having found it unnecessary for the purposes of the present case to consider an additional memorandum dated 19 September 1968 which complainant had been given leave to submit;

Considering Article II, paragraph 5 of the Statute of the Tribunal and Article 11.2 of the UNESCO Staff Regulations;

After examining the documents in the dossier, the oral proceedings requested by complainant having been disallowed;

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

A. On 12 March 1965 Mr. Pannier, who held an indeterminate appointment in Grade IV at UNESCO, obtained from the Organization a housing loan amounting to 10,000 French francs. By the receipt for this sum he undertook to use the loan for the purposes for which it had been applied for and granted. The loan had been approved nearly two years earlier (on 24 May 1963), to enable complainant to pay off a loan from the UNESCO Staff Credit Union which he had contracted at an earlier date for the purpose of purchasing his house at Draveil (near Corbeil-Essonnes, France), the interest on which, as he had stated in his application of 16 May 1963, was a heavy charge on his family budget.

B. Mr. Pannier did not pay off the mortgage on his house at Draveil but invested the loan from UNESCO in shares in a housing development at 9 Boulevard Joffre at Bourg-la-Reine. By a memorandum dated 7 February 1967, the Chief of the Bureau of Personnel informed complainant that, this matter having come to his notice, repayment of the balance of the loan was due immediately. This decision, which was contested by Mr. Pannier, was confirmed on 14 April 1967. A few days earlier Mr. Pannier had informed the Appeals Board of his intention to submit an appeal against the decision of 7 February, and on 9 May 1967 he asked the Financial Controller to suspend recovery of the balance of the loan pending his appeal to the Appeals Board. On 18 May the Chief of the Bureau of Personnel informed him that as from the month of May, and until the debt was paid off, a deduction of 1,121.70 francs would be made from his monthly salary.

C. The Appeals Board to which Mr. Pannier had submitted two appeals, one against the decision concerning recovery of the loan, and the other against the decision of 18 May concerning the method of repayment, decided to join the two appeals, and after considering them on 19 July found that it was not competent to hear the first and that the second (concerning the deduction from complainant's salary) was not well founded. This recommendation was accepted by the Director-General, who communicated his decision to Mr. Pannier on 4 August 1967.

D. In his complaint Mr. Pannier prays that the Tribunal should declare itself competent to review the decision to cancel the loan and should quash that decision. He adds subsidiary submissions seeking to quash the decision to recover the loan by means of deductions from his salary and claiming damages for the material and moral prejudice suffered.

E. The Organization submits that complainant's submissions should be dismissed.

CONSIDERATIONS:

As to the competence of the Tribunal.

The relief sought by Mr. Pannier is, first, the rescinding of the decision of 7 February 1967 cancelling his loan agreement, and the award of damages, and secondly, the rescinding of the decision of 18 May 1967 to effect a monthly deduction from his salary until his debt to the Organisation was fully paid off.

Under Article II, paragraph 5, of its Statute, the Tribunal is competent to rule on Mr. Pannier's second claim for relief; in considering whether it is well founded, however, it must necessarily inquire into the first claim. The legality of the decision of 18 May 1967 depends on the legality of that of 7 February 1967. In consequence, the Tribunal is competent to rule on the first claim.

It follows that the Director-General's decision of 4 August 1967 must be quashed, in the first place because by this decision the Director-General accepted the finding of the Appeals Board and that it was not competent to consider the appeal concerning cancellation of the loan, and in the second place because it dismisses the appeal relating to salary deductions on its merits without going into the first claim.

In these circumstances the complaint must be referred back to the Director-General for him to reach a new decision on all the submissions made by Mr. Pannier, after taking the opinion of the Appeals Board.

DECISION:

For the above reasons,

1. The decision of the Director-General dated 4 August 1967 is quashed.
2. The case is referred back to the Director-General for him to reach a new decision, after taking account of the Appeals Board, on the whole of Mr. Pannier's claims.

In witness of this judgment, delivered in public sitting in Geneva on 15 October 1968 by M. Maxime Letourneur, President, M. 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, Assistant Registrar of the Tribunal.

(Signed)

M. Letourneur  
André Grisel  
Devlin  
Bernard Spy