

EIGHTY-SECOND SESSION

In re Wassef (No. 18)

Judgment 1573

The Administrative Tribunal,

Considering the eighteenth complaint filed by Mr. Maher Nabih Wassef-Gerges against the Food and Agriculture Organization of the United Nations (FAO) on 9 October 1995, the FAO's reply of 23 January 1996, the complainant's rejoinder of 2 March and the Organization's surrejoinder of 16 April 1996;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written submissions and decided not to order hearings, which neither party has applied for;

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

A. The facts of this case are the same as those set out under A in Judgment 1534 on the complainant's fourteenth complaint. Here he is challenging the express, not the implied, rejection of his claim to an award of 2 million United States dollars in damages for the injury he says the Organization caused him by failing to provide a panel of counsel to assist appellants before the Appeals Committee. The decision he impugns is the Director-General's letter of 15 September 1995 notifying that rejection.

In Judgment 1534 the Tribunal dismissed his fourteenth complaint on the grounds that he had offered no evidence of injury.

B. The complainant's pleas on the merits are the same as those he made in his fourteenth complaint. They are summed up in Judgment 1534 under B.

He is asking the Tribunal to rule that the FAO's internal means of redress are "unlawful" and that the reports of the Appeals Committee are unreliable; to award him \$2 million in damages and \$6,000 in costs; to order the FAO to reimburse him the cost of publishing the present judgment in four American, four European and four Arab daily newspapers, and to include in the judgment a penalty for failure to execute the judgment within 30 days of delivery.

C. In its reply the FAO reproduces the pleas summed up in Judgment 1534 under C: the lack of a panel did not prevent the complainant from himself choosing a staff member to represent him before the Appeals Committee. In the Organization's view the complaint is vexatious and intended solely to "harass" it.

D. In his rejoinder the complainant cites case law in support of his assertion that there should be a panel of staff members to assist appellants.

E. In its surrejoinder the Organization presses its pleas and contends that the case law cited by the complainant is immaterial.

CONSIDERATIONS

1. The complainant is claiming an amount of \$2 million on the grounds of the Organization's failure to observe Appendix B to section 331 of the FAO Manual, which states in paragraph 3 that:

"A Panel of six to ten staff members to act as Counsel is available to assist appellants before the Appeals Committee."

Such representation by counsel is, says paragraph 2, "an important element in the appeals procedure within the Organization".

2. The complainant made the same claim in his fourteenth complaint. The Organization objected at the time to the receivability of the claim on the grounds of the complainant's failure to exhaust his internal remedies. In Judgment 1534 the Tribunal rejected that plea on the grounds of inordinate delay in the internal proceedings but dismissed the

complaint on the merits.

3. While that complaint was pending the Director-General took the final decision, dated 15 September 1995, that the complainant is now impugning. Since his main claim is identical to the one in his fourteenth complaint it is *res judicata* and must be dismissed. So must his other claims, which are corollaries of the main one.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Miss Mella Carroll, Judge, and Mr. Mark Fernando, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 30 January 1997.

William Douglas
Mella Carroll
Mark Fernando
A.B. Gardner