

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the International Labour Organisation (ILO) drawn up by Mr. David Brian Steele on 20 May 1976, postmarked 22 May, and brought into conformity with the Rules of Court on 27 May 1976, the ILO's reply of 3 September 1976, the complainant's communication of 9 September 1976, the ILO's reply thereto of 22 September 1976, the complainant's rejoinder of 30 September 1976, supplemented on 9 October 1976, and the ILO's surrejoinder of 23 November 1976;

Considering Article II, paragraph 1, of the Statute of the Tribunal and the Staff Regulations of the International Labour Office;

Having examined the documents in the dossier and disallowed the oral proceedings requested by the complainant;

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

A. On 30 December 1973 the complainant, who holds a degree in economies from the University of Durham, wrote to Mr. Emmerij, Chief of the Employment Department of the International Labour Office, expressing interest in a post combining research with a reasonable amount of administrative responsibility. At the time he was on service with the Fiji Government as an expert employed by the United Nations Office for Technical Co-operation. After a lengthy correspondence the Office told him by letter of 25 June 1974 that it intended to offer him a one-year appointment at grade P. 4 as a Senior Research Officer under the Rural Employment Programme. The letter explained that the correspondence did not give rise to any commitment on either side. The complainant filled in the application form sent to him and returned it on 9 July 1974. After further correspondence the Office made the complainant a firm offer on 10 September 1974, and he accepted it by telegram of 11 September. On 7 October he joined the Employment Department.

B. At the beginning of July 1975 Mr. Griffin, Chief of the Rural and Urban Employment Policies Branch, of which the complainant was a member, told him orally that his appointment would not be renewed when it lapsed in October 1975. The complainant was taken aback and mentioned, among other things, the assurances he had allegedly been given on joining the Office. In a minute Mr. Emmerij wrote to Mr. Griffin on 8 July 1975 he proposed offering the complainant an extension of appointment to 31 December 1975 on the clear understanding that there would be no further extension thereafter. On 15 July Mr. Emmerij told the Personnel Department and the Budget Section that that decision held good and asked whether the complainant could be transferred within the Office.

C. The ILO's financial straits at the time required staff redeployment, and that was the context in which the question of transferring the complainant arose. To encourage redeployment the Personnel Department had asked department heads to report on staff members who had to be transferred for lack of funds. Thus on 3 October 1975 Mr. Emmerij wrote a report on the complainant which stated that in his supervisors' opinion he did not give entire satisfaction and in particular was ill-fitted for team work. In accordance with Articles 13.1 and 13.2 of the Staff Regulations the complainant objected to the report and then to the failure to extend his appointment. The final rejection of his grievance was notified to him on 18 February 1976, and that is the decision he now impugns.

D. In the belief that the Office did not keep the promises it made him in discussions before he joined the staff and that the failure to extend his appointment is based on a mistaken and biased assessment of his work performance, the complainant asks the Tribunal to "reprimand those responsible for the substance and cause of the complaint" and to "restore the status quo ante".

E. In its memoranda the ILO contends that the complainant's first claim is irreceivable in that it wrongly presupposes that the Tribunal has hierarchical or disciplinary authority over the ILO administration. The ILO never promised to employ the complainant for more than a year and his services were properly terminated on the expiry of his fixed-term appointment. Considering his supervisors' opinion of him, his departure on the expiry of his appointment - though it was extended by three months even so - was the only outcome to be expected.

F. The ILO asks the Tribunal to declare the complaint receivable in so far as it bears on the decision not to extend the complainant's appointment - a decision upheld on 18 February 1976, when his grievance was dismissed - and irreceivable as to the remainder; and to declare the complaint unfounded in so far as it is receivable.

CONSIDERATIONS:

1. The complainant seeks in the first place an order from the Tribunal "reprimanding those responsible for the substance and cause of the complaint". The Tribunal has no power to superintend the work of an organisation or to administer reprimands. Its competence is restricted under Article II of its Statute to hearing complaints alleging non-observance of the terms of appointment of officials and of such provisions of the Staff Regulations as are applicable to the case.

2. In the second place the complainant requests from the Tribunal an order to "restore the status quo ante". In order to bring this request within its competence the Tribunal will take it to mean, as the Organisation proposes, that the complainant is asking the Tribunal to quash the decision not to renew his contract and to order his reinstatement. This was a decision which fell within the discretion of the Director-General and therefore the Tribunal's power of review is limited to certain grounds of which the only one here relevant would be an improper motivation. The main reason why the complainant's contract was not renewed was that his superiors considered that he was not the type of person who could work within a team. They may have been right or wrong about this, but a careful study of the dossier does not indicate the existence of any improper motive or of any other ground which could justify the intervention of the Tribunal.

DECISION:

For the above reasons,

The complaint is 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 6 June 1977.

M. Letourneur
André Grisel
Devlin

Roland Morellet