

119th Session

Judgment No. 3468

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr G. J. G. against the Food and Agriculture Organization of the United Nations (FAO) on 24 January 2014;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. On 4 February 2012, the complainant's fixed-term contract with the Food and Agricultural Organization of the United Nations (FAO) came to an end. He ceased to be an official of the FAO on that date. He subsequently entered negotiations with the FAO to act as a consultant to the Organization but no agreement could be reached on the terms of the consultancy. In particular, the complainant was not prepared to agree to the payment of an honorarium set at a rate of 120 United States dollars per day. That rate was offered by the FAO because the Organization had adopted a policy in 2010 (set out in Administrative Circular No. 2010/07) concerning the employment of retirees. One aspect of the implementation of this policy was that certain classes of individuals categorised as "UN Pensioners" would only be employed on the basis that they were paid a daily honorarium, which was set at 120 dollars a day. The "UN Pensioners" category is defined as "a former FAO or UN Common system staff member over 55 years of age in receipt of or eligible to receive a pension from the United Nations Joint Staff Pension Fund". The FAO took the view

that the employment of the complainant as a consultant was governed by this policy.

2. When notified of this approach, the complainant requested Human Resources to review his classification as a “UN Pensioner”. In May 2012 the complainant, who had not heard back from Human Resources, lodged an appeal with the Director-General. This appeal was rejected as irreceivable in a letter to the complainant dated 13 July 2012. The complainant thereupon lodged an appeal to the FAO Appeals Committee (AC). This, in turn, led to a recommendation by the AC that the appeal (challenging the decision of 13 July 2012) be dismissed as irreceivable. This recommendation was accepted by the Director-General who rejected the appeal in a letter dated 16 October 2013. This is the impugned decision.

3. The initial appeal by the complainant to the Director-General dated 14 May 2012 identified and limited the issues that were thereafter to be considered in the internal appeal process. The issues were the complainant’s classification as a “UN Pensioner” and the status of Administrative Circular No. 2010/07. An ancillary issue raised was that the Circular involved discrimination on the basis of age.

4. However it is clear that these issues concerned the application of a policy to the complainant while he was seeking consultancy work with the FAO but when he was no longer an official of the Organization. The policy had no practical or legal application to the complainant when he was an official of the FAO. Accordingly the issues sought to be raised by the complainant in his internal appeal and before the Tribunal are not issues concerning the non-observance of the terms of his appointment as an official of the FAO or of the application of the Staff Regulations applicable to him during his period of employment with that Organization. The complainant’s challenge is made as a potential consultant rather than as a former official. Consequently, his complaint is based on his status as a potential consultant. Having regard to Article II of the Tribunal’s Statute, the complaint does not raise issues over which the Tribunal has jurisdiction. Thus the

complaint should be summarily dismissed as irreceivable *ratione personae* in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 14 November 2014, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 11 February 2015.

GIUSEPPE BARBAGALLO
MICHAEL F. MOORE
HUGH A. RAWLINS

DRAŽEN PETROVIĆ