

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

A.
v.
FAO

126th Session

Judgment No. 4054

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms T. F. A. against the Food and Agriculture Organization of the United Nations (FAO) on 22 December 2017;

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

Having examined the written submissions;

CONSIDERATIONS

1. The complainant commenced employment with the FAO in February 2003. At the material time she occupied a position of Senior Evaluation Officer. On 30 January 2015 a decision was taken to transfer her to Tunis effective 1 March 2015. The complainant was reluctant to accept this appointment, and she expressed an interest in early retirement instead. Discussions ensued concerning the possibility of her remaining at Headquarters in Rome though in a different position. In the event, however, on 25 February 2015 the complainant tendered her resignation effective 12 September 2015. She proposed to bridge the period between 1 March and 12 September by exhausting her annual leave entitlements and then taking special leave without pay.

Her resignation on these terms was accepted by the FAO on 25 February 2015.

2. On 17 May 2015 the complainant initiated an internal appeal against the decision “to terminate [her] assignment to the position of Senior Evaluation Officer”. She alleged that there were no valid grounds for her transfer out of the Office of Evaluation (OED). Following an initial rejection of her claims, the matter was referred to the Appeals Committee. In accordance with the Appeals Committee’s recommendation, the Director-General dismissed the appeal in its entirety by a decision of 3 October 2017, which the complainant impugns before the Tribunal.

3. The Tribunal notes that the only official decision notified to the complainant in relation to her transfer out of OED was the decision to transfer her to Tunis. This decision was notified to the complainant on 2 February 2015. The Appeals Committee and, in turn, the Director-General therefore correctly determined that the internal appeal filed on 17 May 2015 was time-barred as it was not filed within 90 days from receipt of the challenged decision, as Staff Rule 303.1.311 required.

4. Pursuant to Article VII, paragraph 1, of the Tribunal’s Statute, a complaint is not receivable unless the complainant has exhausted the internal means of redress. As the Tribunal stated in Judgment 3903, consideration 6, “[t]his means that a complaint will not be receivable if the underlying internal appeal was irreceivable (see Judgment 3758, consideration 10)”. As noted above, the complainant’s internal appeal was time-barred. Her complaint is therefore irreceivable as she did not exhaust the internal means of redress which were open to her under the FAO’s internal regulations as Article VII, paragraph 1, of the Tribunal’s Statute requires. Accordingly, the complaint is clearly irreceivable and must be summarily dismissed in accordance with the procedure set out 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 18 May 2018, Mr Giuseppe Barbagallo, President of the Tribunal, Ms Dolores M. Hansen, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 26 June 2018.

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

HUGH A. RAWLINS

DRAŽEN PETROVIĆ