

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

D.

v.

IFAD

131st Session

Judgment No. 4371

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms S. D. against the International Fund for Agricultural Development (IFAD) on 17 March 2017 and corrected on 17 May, IFAD's reply of 4 September 2017, the complainant's rejoinder of 8 January 2018 and IFAD's surrejoinder of 16 April 2018;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

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

The complainant seeks redress for the moral injury that she allegedly suffered in connection with her annual performance evaluation.

The complainant – who had filed a harassment complaint against her supervisor on 12 March 2015 – disagreed with some of the assessments contained in her evaluation report for 2014. She unsuccessfully challenged her evaluation in a conciliation procedure and then filed an appeal with the Joint Appeals Board on 16 January 2016. On 8 February she tendered her resignation with effect from 29 February, which was accepted.

In its report of 4 November 2016, the Joint Appeals Board noted that there were inconsistencies in the evaluation report in question and that no explanation had been given with regard to the four required competencies that, according to the complainant's supervisor, needed improvement. In particular, the Board recommended that the evaluation

of the complainant's performance be reopened to ensure full recognition of her achievements and, if the rating of the four aforementioned competencies proved to be unjustified, that it be revised by replacing it with a positive rating. By a letter dated 2 December 2016, which constitutes the impugned decision, the President of IFAD decided to endorse the recommendation to reopen the evaluation process. To that end, he instructed the Human Resources Division to contact the complainant. On 21 December the Director of the Human Resources Division forwarded the impugned decision and an amended version of the complainant's evaluation report to her. He also requested that she reimburse the sum of 5,483.38 United States dollars, which she allegedly owed IFAD under paragraph 10.4.3(ii)(c) of the Implementing Procedures, which concerns, in particular, advances on annual leave.

On 12 January 2017 the complainant noted that, in the new version of her evaluation report, one of the required competencies was still assessed as requiring improvement without an explanation having been given, and she suggested that a positive rating for that competency be inserted in the aforementioned report. She further requested explanations as to how the amount for which reimbursement was sought had been calculated. Having received no response, on 28 February she requested a review of the contested evaluation and payment of compensation for moral injury, otherwise she intended to file a complaint with the Tribunal. By email of 2 March, she received an entirely positive revised evaluation report and was requested once more to reimburse the aforementioned amount. On 3 March she asked for clear explanations regarding that sum and repeated her request for compensation. Although information regarding how the sum claimed had been calculated was provided, the complainant did not reimburse it.

The complainant asks the Tribunal to set aside the impugned decision, to redress all the moral injury she considers she has suffered and which she assesses at 10,000 euros at least, and to award her costs of 6,000 euros for the internal appeal proceedings and the proceedings before the Tribunal.

IFAD requests the Tribunal to dismiss the complaint in its entirety and to order the complainant to repay it the sum of 5,483.38 United States dollars.

CONSIDERATIONS

1. The complainant impugns the decision of the President of IFAD dated 2 December 2016 which endorsed the recommendation of the Joint Appeals Board that the process of evaluating her performance be reopened. She asks the Tribunal to order IFAD to redress all moral injury suffered, which she assesses at 10,000 euros at least, and to order it to pay her the sum of 6,000 euros in costs for the internal appeal proceedings and the proceedings before the Tribunal.

2. IFAD submits that the Tribunal should dismiss the complaint in its entirety on the grounds that the moral injury allegedly suffered was not complained of during the internal appeal and that, in the absence of injury, the complainant does not have a cause of action. It further requests that the Tribunal order the complainant to reimburse the sum of 5,483.38 United States dollars received as an advance on annual leave.

3. The complainant submits that she has suffered moral injury in that her initial evaluation “caused [her] particular anxiety in connection with the fear of not receiving responsibilities comparable or close to those which she had undertaken until that point and which had been above her grade, and with the fear of being placed in the uncomfortable, even somewhat humiliating position of having to disclose or discuss the critical content of her evaluation and losing a great deal of credibility among her colleagues”^{*}.

4. The Tribunal notes that the complainant’s evaluation was significantly amended following the internal appeal procedure and the subsequent revision of her evaluation report. The final version of her evaluation no longer contains any of the negative assessments which the complainant had criticised.

While the complainant submits that she suffered injury as a result of anxiety regarding the effects of her initial evaluation on her career and reputation, the Tribunal considers, in this case, that she has not provided sufficient evidence to establish that injury.

^{*} Registry’s translation.

5. It follows from the foregoing that the complaint must be dismissed in its entirety, without there being any need to rule on the objections to receivability raised by IFAD.

6. IFAD has requested the Tribunal to order the complainant to repay the sum of 5,483.38 United States dollars which, according to it, she owes due to an advance on her annual leave. However, insofar as this counterclaim is not aimed at compensating IFAD for an injury arising from the present proceedings as such, it must in any case be dismissed as irreceivable as a consequence of the dismissal of the complaint itself (for a similar case, see Judgment 4140, consideration 12).

DECISION

For the above reasons,

The complaint is dismissed, as is IFAD's counterclaim.

In witness of this judgment, adopted on 17 December 2020, Mr Patrick Frydman, President of the Tribunal, Mr Giuseppe Barbagallo, Judge, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 18 February 2021 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN GIUSEPPE BARBAGALLO FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ