

SIXTEENTH ORDINARY SESSION

***In re* L'EVEQUE**

Judgment No. 95

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the International Telecommunication Union drawn up by Mr. Charles L'Evêque on 7 March 1963, brought into conformity with the Rules of Court on 8 April 1963;

Considering Order No. 76, dated 11 September 1964, by which the Tribunal, before giving judgment: (1) ordered the hearing as witnesses of Messrs. Robert Ward, George Chamot, Jean-Pierre Christinat, Alf. S. Winter-Jensen and Jean-Paul Bernard; (2) decided that Mr. Ward should reply, in accordance with the conditions laid down in paragraph 3 of Article 14 of the Rules of Court, to the questions drawn up by the Tribunal on the proposals of the parties; (3) decided that the other witnesses proposed by the complainant should be examined by the Tribunal at a hearing on a date to be fixed subsequently; (4) authorised ITU to request the hearing of witnesses in a position to testify as to the facts of the case; (5) instructed the Registrar of the Tribunal to take all the measures necessary to give effect to the present decision.

Considering the documents in the dossier relating to supplementary measures of investigation, and specifically the Order of 25 October 1965 concerning the hearing as witness of Mr. Ward in the USA and the reference to the State Department of the United States of America of questions raised by the ITU in regard to any diplomatic immunity that might apply to Mr. Ward, as well as the Order of 18 May 1966, calling, at the request of the President of the Bar Association of South Carolina, commissioned by the Tribunal to interrogate Mr. Ward, for the production of a document in the ITU's possession, together with the ITU's memorandum of 26 July 1966 explaining the reasons invoked against producing this document;

Considering the Statute and Rules of Court of the Administrative Tribunal;

A. Considering that the complainant requested the quashing of a decision of 7 August 1962 by which the Secretary-General of the ITU terminated his appointment during his probationary period, on the ground that the decision impugned was taken for reasons extraneous to the interests of the service, and, in particular, to the complainant's professional qualifications, and consequently asked that compensation be granted to him in an amount equal to the salary and allowances which would have been paid to him up to the end of his probationary period, together with the costs incurred in connection with the present complaint.

B. Considering that the ITU prays for the dismissal of the complaint, asserting that the decision impugned was taken in application of Article 9.1, paragraph a) 3) of the Staff Regulations which provides that a probationary official's appointment may be terminated at any time if, in the opinion of the Secretary-General, this is in the interests of the Union, and that this measure was taken exclusively on account of the professional incompetence of the complainant.

C. Considering that, as noted in Order No. 76 referred to above, the parties being opposed with regard to the facts, the Tribunal has carried out a full investigation of the case, both *ex officio* and at the request of the parties.

D. Considering that by an instrument filed with the Registrar on 7 September 1966, the complainant, having regard to the fact that he had accepted the ITU's offer to settle the case out of court by paying the whole amount of the compensation claimed, namely the sum of 14,930.50 Swiss francs, which had been deposited with his Counsel, together with such legal costs and fees as the Tribunal might order, declares that he withdrew any claim whatsoever with respect to the relief prayed for in his complaint.

DECISION:

1. Mr. L'Evêque's withdrawal of suit is hereby recorded.

2. The amount of the costs and fees of the complainant's legal counsel to be borne by the ITU is fixed at 5,300 Swiss francs.

In witness of this judgment, delivered in public sitting in Geneva on 11 October 1966 by Mr. Maxime Letourneur, President, Mr. André Grisel, Vice-President, and the Right Honourable Lord Devlin, P.C., Judge, the aforementioned have hereunto attached their signatures to these presents, as well as myself, Lemoine, Registrar of the Tribunal.

(Signed)

M. Letourneur
André Grisel
Devlin
Jacques Lemoine

Updated by PFR. Approved by CC. Last update: 7 July 2000.