

SEVENTH ORDINARY SESSION

***In re* RAINA**

Judgment No. 31

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint drawn up by Mr. J.L. Raina on 26 August 1957 and lodged against the International Labour Organisation,

Considering the Statute of the Tribunal and, in particular, paragraphs 1 to 3 of Article VII,

Considering that the appointment of the complainant as an expert under the Expanded Programme of Technical Assistance was terminated by letter of 7 April 1954; that in conformity with the relevant provisions of the regulations of the Technical Assistance Board the complainant was granted one month's notice as well as a sum corresponding to 7-1/2 weeks' salary by way of indemnity for termination of appointment but that the complainant submits that his termination was unjustified and claims that he was in consequence entitled to the payment of his salary until the end of December 1954, date of expiry of his appointment; that, in addition, he claims that he should receive damages arising from his alleged wrongful dismissal and that his claim should be determined by the Tribunal;

Considering that the termination notice of 7 April 1954 was not made the subject of an appeal until 26 August 1957; that the complainant did not introduce his complaint within the period of 90 days from the date of the notice or from the date of receipt of the letter of 15 July 1954 by which the Administration refused the request of the complainant that he be paid salary until the expiry of his original appointment, or even within the period of 60 days at the end of which the failure of the Administration to reply to the complainant's letter of protest of 30 August 1954 would have given rise to a right to submit a claim, supposing always that the question had still been pending; that accordingly whatever eventuality is taken into consideration by the Tribunal, and without proceeding to an examination of the merits, the complainant has allowed all the time limits to run against him;

Considering that far from submitting reasons for justifying the tardy submission of his complaint, the complainant appears to argue that where a claim is made and not conceded the administration against which such a claim has been made is under an obligation to seize the Tribunal, whereas no such obligation exists and that, on the contrary, the right and duty to seize the Tribunal of a dispute belongs solely to the aggrieved party;

Considering that the time limits for the submission of complaints provided for in the Statute of the Tribunal are mandatory, and that the Tribunal must ensure that they are respected;

ON THE GROUNDS AS AFORESAID

THE TRIBUNAL,

Declares the complaint to be irreceivable as being time barred; refuses its inclusion in the list and, on the Tribunal's own motion, rejects the said complaint; instructs the Registrar to transmit a certified true copy of this decision to the complainant.

In witness of which decision, given on the basis of the documents submitted, and promulgated on 28 March 1958 by His Excellency Albert Devèze, President, Professor Georges Scelle, Vice-President, and Sir John Forster, K.B.E., Q.C., Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Lemoine, Registrar of the Tribunal.

(Signatures)

Albert Devèze

Georges Scelle
John Forster
Jacques Lemoine

Updated by SD. Approved by CC. Last update: 30 May 2008.