

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

B. (No. 2)

v.

IFAD

124th Session

Judgment No. 3855

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Mr F. B. against the International Fund for Agricultural Development (IFAD) on 27 May 2014 and corrected on 28 July 2014, IFAD's reply of 6 February 2015, the complainant's rejoinder of 27 May and IFAD's surrejoinder of 16 July 2015;

Considering Article II, paragraph 5, 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 challenges the decision to maintain his position at the same grade.

In 2011, as part of a human resources reform programme, IFAD decided to have a job audit conducted by external consultants who submitted their report on 22 April 2012.

On 5 October 2012 the President of IFAD published Bulletin PB/2012/13 setting out *ad hoc* procedures for implementing the job classification decisions resulting from the audit. On 12 October he published Bulletin PB/2012/14 introducing an *ad hoc* review and appeals procedure for challenging those decisions. It had two stages: a Mandatory Administrative Review, the purpose of which was to check the accuracy of the job descriptions used to classify positions, then an appeal to the

ad hoc Reclassification Appeals Committee (hereinafter referred to as “the *ad hoc* Committee”), which had exclusive jurisdiction to review appeals submitted by staff members against a classification decision taken at the end of the administrative review. The *ad hoc* Committee had to present its recommendations to the President for a final decision.

By an email of 21 December 2012, staff members were informed that, for those of them who had not been contacted after the job audit conducted in 2011, the grade of their position remained unchanged and they should follow the procedure set out in Bulletin PB/2012/14 if they wished to challenge that decision. By a memorandum of 3 February 2013 the complainant, who held grade G-6, requested an administrative review of the decision to maintain his position at the same grade. He alleged that this decision was based on an inaccurate job description and he attached to his memorandum a job description which faithfully reflected his duties. The decision to maintain his position at grade G-6 was confirmed on 15 March.

On 6 April the complainant submitted to the *ad hoc* Committee an appeal in which, amongst other relief, he sought the quashing of the decision of 15 March and a new job audit of his position based on the job description attached to his request for an administrative review. The Committee issued its report on 27 November 2013. As it considered that the job audit conducted in 2011 complied with international classification standards, that the complainant had had an opportunity to comment on the terms of his job description and that he had accepted them before the description was submitted to the external consultants, it recommended the dismissal of the appeal.

By a letter of 26 February 2014, which constitutes the impugned decision, the complainant was informed that the President had decided to endorse the *ad hoc* Committee’s recommendation.

On 27 May 2014 the complainant filed a complaint with the Tribunal, in which he asked it to set aside the impugned decision, as well as the earlier decisions of 21 December 2012 and 15 March 2013, to order IFAD to conduct a new job audit of his position and to redress the moral and material injury which he claims to have suffered. Lastly, he requests an award of costs in the amount of 6,000 euros.

IFAD asks the Tribunal to dismiss the complaint as unfounded.

CONSIDERATIONS

1. One of the numerous pleas on which the complainant relies is of decisive importance for the resolution of this dispute, namely his plea that Bulletin PB/2012/14, inasmuch as it provides for special review and appeal procedures, is unlawful because it creates an exception to Staff Rule 9.1, which establishes a Joint Appeals Board to hear appeals against administrative decisions.

2. IFAD submits that this criticism is groundless as the internal appeal machinery introduced by Bulletin PB/2012/14 meets the requirements of the Tribunal's case law.

3. It is clear from the evidence in the file that the *ad hoc* appeal procedure instituted by Bulletin PB/2012/14 to challenge classification decisions resulting from the implementation of the job audit conducted in 2011 is different to that set up under Staff Rule 9.1. However, in seeking to demonstrate that the plea raised in this connection by the complainant is without merit, IFAD has not established that its President, who adopted the contested alternative appeal procedure as defined in Bulletin PB/2012/14, had the authority to do so and thereby to depart from the procedure laid down by the aforementioned Staff Rule. For this reason, the procedure introduced by Bulletin PB/2012/14 is unlawful in that it precludes the application of Staff Rule 9.1.

The impugned decision and the earlier decisions of 21 December 2012 and 15 March 2013 must be set aside on these grounds, as must the appeal procedure which culminated in the decision of 26 February 2014.

4. Since the claims regarding alleged material injury are not supported by any evidence, they must be dismissed.

5. On the other hand, the complainant is entitled to damages for the moral injury which he has suffered on account of the unlawful nature

of the procedure. This injury may be fairly redressed by awarding him the sum of 5,000 euros.

6. As the complainant succeeds, he is also entitled to an award of costs, which the Tribunal sets at 3,000 euros.

DECISION

For the above reasons,

1. The decision of 26 February 2014 and the earlier decisions of 21 December 2012 and 15 March 2013 are set aside.
2. IFAD shall pay the complainant 5,000 euros in moral damages.
3. It shall also pay him costs in the amount of 3,000 euros.
4. All other claims are dismissed.

In witness of this judgment, adopted on 2 May 2017, Mr Claude Rouiller, President of the Tribunal, Mr Giuseppe Barbagallo, Vice-President, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 28 June 2017.

(Signed)

CLAUDE ROUILLER GIUSEPPE BARBAGALLO FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ