

FORTY-SEVENTH ORDINARY SESSION

***In re* TARRAB (No. 6)**

Judgment No. 467

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint brought against the International Labour Organisation (ILO) by Mr. Nazmi Tarrab on 28 January 1981, the ILO's reply of 4 May 1981, the complainant's rejoinder of 6 August 1981 and the ILO's surrejoinder of 14 August 1981;

Considering Article II, paragraph 1, of the Statute of the Tribunal and Article 8, paragraph 3, of the Rules of Court;

Having examined the written evidence;

CONSIDERATIONS:

1. On 4 September 1974 the complainant was appointed as the ILO's representative in Aden. He held grade P.4 but in accordance with a decision taken on 15 November 1974 under Article 3.7 of the Staff Regulations he was paid a special duty allowance which raised his salary to that of grade P.5, step 3.

On 19 September 1978 the Director-General confirmed the grant of his special duty allowance but refused to promote him to grade P.5.

By Judgment No. 395 the Tribunal dismissed the complaint impugning that decision. It found that the decisions of 4 September and 15 November 1974 had not been cancelled and were still in force, and it held that the Director-General had not abused his discretionary authority in keeping the complainant at grade P.4.

2. On 12 August 1980 the complainant appealed under Article 13.2 of the Staff Regulations claiming promotion to P.5 with retroactive effect from 1 January 1977.

In this complaint he is challenging the decision to dismiss that appeal. He contends that in treating his assignment to Aden as continuous from 1 October 1974 to 30 June 1978 Judgment No. 395 created a new situation which warrants review of the matter of his promotion.

3. He is now pursuing a claim which the Tribunal dismissed in Judgment No. 395, and his present complaint thus appears to be an application for review of that judgment. He is relying on what he alleges to be a new situation. In fact it is not: the Tribunal was not unaware of it in delivering Judgment No. 395, and indeed referred to it. Nevertheless the complainant's claim to promotion was dismissed. There is no reason to grant him now what he was not granted before: the matter is *res judicata*.

DECISIONS:

For the above reasons,

The complaint is dismissed.

In witness of this judgment by Mr. André Grisel, President, Mr. Jacques Ducoux, Vice-President, and the Right Honourable Lord Devlin, P.C., Judge, the aforementioned have hereunto subscribed their signatures as well as myself, Allan Gardner, Registrar of the Tribunal.

Delivered in public sitting in Geneva on 28 January 1982.

(Signed)

André Grisel
J. Ducoux
Devlin

A.B. Gardner

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