

## SIXTIETH ORDINARY SESSION

In re STEELE (No. 2)

(Application for review)

Judgment No. 788

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment No. 310 filed by Mr. David Brian Steele on 5 March 1986, and corrected on 10 March, the reply of the International Labour Organisation (ILO) of 24 April, the complainant's rejoinder of 23 May and the ILO's surrejoinder of 4 July 1986;

Considering Article II, paragraph 1, of the Statute of the Tribunal;

Considering the order issued by the Tribunal on 12 June 1986 on Mr. Steele's application of 18 March;

Having examined the written evidence and disallowed Mr. Steele's application for oral proceedings;

### CONSIDERATIONS:

The facts of the original complaint and the pleadings in that case are summed up in Judgment 310.

In that complaint the applicant asked the Tribunal to do two things:

- (1) reprimand those responsible for the substance and cause of the complaint; and
- (2) order renewal of his contract and his reinstatement.

In Judgment 310, delivered on 6 June 1977, the Tribunal declined to do either on the grounds:

- (1) that it may not superintend the ILO's work or administer reprimands, its power being restricted under Article II of its Statute to hearing complaints alleging non-observance of the terms of appointment of officials and of such provisions of the Staff Regulations as are applicable to the case; and
- (2) that the complainant was appointed on a one-year contract, the Director-General had discretion whether or not to renew that contract and the Tribunal could review the Director-General's exercise of his discretion only on specific grounds of which none had been established.

It is that judgment that the applicant asks the Tribunal to review in the instant case, and on the following four grounds:

- (1) procedural faults,
- (2) errors of fact,
- (3) new facts, and
- (4) failure to pass judgment on a claim.

His principal plea is that there was a possibility that the President of the Tribunal gave some informal guidance or ruling which was passed on to the United Nations and its agencies and resulted in the blocking of his career inside and outside the World Health Organization for more than eight years. Accordingly, on the grounds stated, he submits that the Tribunal should order the removal of the obstacles -- he calls them "system-wide blocks" -- and order the ILO to pay him compensation for the injury done to him.

He pursues a similar argument in a separate complaint filed with the Tribunal against the WHO, which the Tribunal dismisses in Judgment No. 789.

In its reply the ILO submits that the complaint is irreceivable because it was filed nearly nine years after delivery of the judgment: that lapse of time is not reasonable and there are no special circumstances to justify it. The ILO further pleads that there is no merit in the applicant's case, it is nothing but vague accusations and insinuations and, moreover, two of the witnesses cited by him live abroad and one is dead.

The Tribunal agrees with the ILO's contention that the application for review of Judgment 310 is not receivable.

While neither the Statute nor the Rules of Court provide for review of its judgments, the Tribunal has nevertheless reserved for itself the power to review, though only in exceptional circumstances: see Judgments 442, 570, 704 and 705.

But in fairness to both parties review must be sought within a reasonable time after the judgment has been delivered. Normally litigants protect their interests by acting at the earliest possible moment so as to prevent any inference that they have acquiesced in the act complained of.

What is a reasonable time within which a dissatisfied party should seek review? As earlier stated, the Statute and Rules of Court are silent on this, unlike those of other judicial bodies. For example, it is observed, Article 12 of the Statute of the United Nations Administrative Tribunal provides that an application for revision "must be made within one year of the date of the judgment"; and Article 26 of the Rules of the Administrative Tribunal of the Inter-American Development Bank and Article XII of the Statute of the Appeals Board of the Intergovernmental Committee for Migration contain a similar rule. The time limit is five years before the appeals bodies of the North Atlantic Treaty Organization and of the European Space Agency.

The Tribunal will not indicate what would be a reasonable time but will answer the question on a case-by-case basis.

The Tribunal does, however, hold that waiting nearly nine years, as the applicant has, is wholly unreasonable.

In any event the charge that the Tribunal gave guidance or some sort of ruling calculated to harm the complainant is so plainly unfounded that it calls for no reply.

DECISION:

For the above reasons,

The application is dismissed.

In witness of this judgment by Mr. André Grisel, President of the Tribunal, Mr. Jacques Ducoux, Vice-President, and Tun Mohamed Suffian Judge, the aforementioned have signed hereunder, as have I, Allan Gardner, Registrar.

Delivered in public sitting in Geneva on 12 December 1986.

(Signed)

André Grisel

Jacques Ducoux

Mohamed Suffian

A.B. Gardner

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**ORDER**

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

FIFTY-NINTH ORDINARY SESSION

In re STEELE v. ILO (No. 2)

In re STEELE v. WHO

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr. David Brian Steele against the International Labour Organisation (ILO) on 5 March 1986 and corrected on 10 March;

Considering the complaint filed by Mr. Steele against the World Health Organization (WHO) on 5 March 1986 and corrected on 10 March;

Considering the complainant's application of 18 March 1986 for a provisional order or, subsidiarily, for an interim judgment allowing his allegations of a general "blocking" of his career in the United Nations system and awarding a remedy;

Considering the ILO's reply of 25 April 1986 and the WHO's reply of 9 April 1986, which invite the Tribunal to dismiss the application;

CONSIDERATIONS:

Being in session, the Tribunal itself will rule on the application.

Insofar as it seeks a provisional order it fails because it does not ask for any measure such as is prescribed in Article 19 of the Rules of Court.

Insofar as it seeks an interim judgment it again fails because the Tribunal cannot rule on the issues until the written proceedings have been completed.

The oral proceedings applied for by the complainant would therefore serve no purpose.

ORDERS:

1. The application of 18 March 1986 is dismissed.
2. The Registrar shall proceed with the pleadings in the usual way.

In witness of this judgment by Mr. André Grisel, President of the Tribunal, Mr. Jacques Ducoux, Vice-President, and Mr. Héctor Gros Espiell, Deputy Judge, the aforementioned have signed hereunder, as have I, Allan Gardner, Registrar.

Geneva, 12 June 1986.

(Signed)

André Grisel

Jacques Ducoux

H. Gros Espiell

A.B. Gardner