

**SECOND ORDINARY SESSION**

***In re* MANGE**

**Judgment No. 8**

THE ADMINISTRATIVE TRIBUNAL,

Being seised of a claim dated 18 May 1960 by Mademoiselle Léone M. Mange against the World Health Organization;

Whereas the Claimant specifies as follows the relief for which she makes application:

That it may please the Tribunal to decide that:

(1) the conclusions of the Board of Enquiry and Appeal of 1 March 1950 are erroneous, the Administration having, at that date, contravened the Staff Regulations on three occasions;

(2) the extension of the period of probation was an unjustifiable and, even, an illegal sanction, because the total duration of the period of probation could not exceed 18 months (Article 131, 3); accordingly, the contract became confirmed on 20 December 1949;

(3) the refusal of the Personnel Service to pay an indemnity to the Claimant, an indemnity to which reference is made in paragraph 3 of the report of the Board of Enquiry and Appeal of 1 March 1950, is not justifiable; compensation for the material and moral prejudice should take the form of an indemnity, as provided in Article 632, 3 of the Staff Regulations;

Whereas the World Health Organization requests that it may please the Tribunal:

To refuse the relief asked for by the Claimant because there are no grounds therefor;

Consequently

To declare that, on the basis of the conclusions reached by the Board of Enquiry and Appeal on 1 March 1950:

The extension of the period of probation in this case was in accordance with regulations;

The contract of 1 December 1948, by the terms of which, as from 1 April 1949, the Claimant was appointed a "Library Clerk", could not become effective;

The non-confirmation of a contract, following the Claimant's two unsatisfactory periods of probation, cannot give rise to an indemnity.

**ON THE FACTS:**

Whereas, following three temporary contracts of short duration, the Claimant accepted a fourth contract to work as a stenographer for a term of two years, including a period of probation of six months dating from 1 December 1948,

Whereas, during the probationary period, the Claimant was transferred to the Library and, consequently, promoted from Grade 4 to Grade 5, the new duties being those of a "Library Clerk", with effect from 1 April 1949, and entailing a six months' period of probation commencing on that date;

Whereas such period of probation was extended for six months;

Whereas the Administration, by a letter of 29 December 1949, notified the Claimant that her appointment was

terminated,

Whereas the Director-General confirmed the administrative decision to terminate the Claimant's contract and then confirmed the decision in a letter dated 2 February 1950,

Whereas at the request of the Claimant the period of one month's notice was calculated from 2 February 1950,

Whereas the Board of Enquiry and Appeal made it known that it approved the administrative decision

but added

"However, the Board recommends to the Director-General that should any other Organisation ask W.H.O. for references on the appellant such references should also state that, in the opinion of the Board, the appellant is an intelligent and precise worker who could produce good work if it interests her and if the social environment is suitable",

and the Director-General appended to this report on 1 May 1950: "I concur in this recommendation".

#### ON THE MAIN ISSUES:

Whereas the Claimant, who was a probationer official from 1 December 1948 and not, as she contends, from 21 June 1948, was still a probationer official at the time of the dismissal and the period of probation did not exceed 18 months,

Whereas the provisions of the Staff Regulations concerning the period of probation have been observed, the Director-General decides on his exclusive authority the course to be taken with regard to a probationer official and the Tribunal is not even competent to award the indemnity asked for by the Claimant, in spite of the promotion gained by her during her probationary period and the good opinion of the Board of Enquiry and Appeal confirmed by the Director-General.

#### ON THE GROUNDS AS AFORESAID:

Orders that the Claimant's claim be dismissed.

In witness of which judgment, pronounced in public sitting on 5 April 1951 by His Excellency Mr. Devèze, President, Jonkheer van Rijckevorsel, Vice-President, and the Honourable Mr. Wyzanski, Judge, the aforementioned have hereunto subscribed their signatures as well as myself, Secretan, Registrar of the Tribunal.

(Signatures)

Albert Devèze  
A. van Rijckevorsel  
Wyzanski  
Jacques Secretan