SEVENTY-THIRD SESSION

In re MADAN (No. 3) and RAMAN

Judgment 1192

THE ADMINISTRATIVE TRIBUNAL,

Considering the third complaint filed by Mr. Rambhaj Madan against the World Health Organization (WHO) on 22 October 1991, the WHO's reply of 11 March 1992, the complainant's rejoinder of 6 April and the Organization's surrejoinder of 1 May 1992;

Considering the applications to intervene in Mr. Madan's complaint by Mr. Ashok Mitra, Mr. Ram Lakhpat Rai and Mr. A.N. Sachdeva and the WHO's observations thereon of 5 May 1992;

Considering the complaint filed by Mr. Natesaiyer Raman against the WHO on 14 October 1991, the WHO's reply of 16 March 1992, the complainant's rejoinder of 9 April and the Organization's surrejoinder of 30 April 1992;

Considering that the two complaints raise the same issues and should therefore be joined to form the subject of a single ruling;

Considering Articles II, paragraph 5, VII, paragraph 1, and VIII of the Statute of the Tribunal, Article 17 of the Rules of Court, WHO Staff Regulation 3.2, WHO Staff Rules 1230.1, 1230.3, 1230.4 and 1310.3 and WHO Manual paragraph II.1.40;

Having examined the written evidence and decided not to order oral proceedings, which none of the parties has applied for;

Considering that the facts of the case and the pleadings may be summed up as follows:

A. WHO Staff Regulation 3.2 reads:

"... The salary and allowance plan shall be determined by the Director-General following basically the scales of salaries and allowances of the United Nations, provided that for staff occupying positions subject to local recruitment the Director-General may establish salaries and allowances in accordance with best prevailing local practices ..."

The text of Rule 1310.3 is similar.

As Judgment 1160 explained, under A, every few years there is a review of salary scales of the WHO's General Service category staff on the strength of comprehensive surveys of local practice. Between such surveys there may be adjustments on the strength of "mini-surveys". As from 1 January 1985 the International Civil Service Commission (ICSC) approved a "general methodology" for carrying out surveys and the Consultative Committee of the United Nations on Administrative Questions (CCAQ) has issued a Manual on how to apply it. Paragraph A.2.2 of the Manual says that at each duty station a Local Salary Survey Committee should make the arrangements and, where there is none, it is up to the "designated agency" for the duty station to appoint one. At the material time the "designated agency" for New Delhi was the WHO.

At the bidding of WHO headquarters in Geneva the Local Salary Survey Committee carried out in November 1985 and early 1986 a comprehensive survey of the salaries of staff in the General Service category in New Delhi. It recommended applying as from 1 January 1986 new scales to such staff serving any of the United Nations organisations in New Delhi. The WHO approved new scales as from 1 January 1986 for its General Service staff in its Regional Office for South East Asia (SEARO), in New Delhi, and they are commonly known as "revision 27".

Headquarters having asked for interim adjustment, the Local Committee carried out a mini-survey in the first half of 1987. The Organization approved its recommendations and by what it calls "revision 28" brought in increases in salary for the General Service staff of SEARO as from 1 January 1987.

The nine complaints which the Tribunal joined and ruled on in Judgment 1160 of 29 January 1992 challenged both the 1986 and the 1987 scales. That judgment held the challenge to the 1986 scales to be irreceivable but quashed decisions that the Director-General had taken applying the findings of the 1987 survey and ordered him to take a new decision in the light of the judgment.

The Local Committee carried out a second mini-survey in 1988, again purporting to follow the general methodology and the CCAQ Manual. WHO headquarters having approved the Committee's findings, SEARO announced new scales in a memorandum headed "revision 29" and applied them as from 1 April 1988. The WHO explains that the reasons for picking that date instead of 1 January 1988 were that one of the "comparator" local employers had put salaries up only as from April and an earlier effective date would have precluded counting that increase, and that the Indian Government had made tax changes as from 1 April.

The new scales provided for a 9.2 per cent increase in salary at grades ND.1 to ND.6. The application of the same increase to salaries at higher grades would have meant an actual increase of 0.9 per cent for ND.7 and none at all for ND.8 and ND.X because of "negative indexation" (a measure which is described in Judgment 1160, under A); instead a real increase of at least 3 per cent was paid to staff at those grades.

By a further memorandum which it issued to General Service staff on 1 February 1989 the Organization announced amended scales known as "revision 29, amendment 1". They brought in interim adjustments that were again to apply, as from 1 April 1988 and it is they that are at issue in this case. Although the average increase was still 9.2 per cent, the inter-grade differentials were altered. Salaries were put up by 8.9 per cent at grades ND.1 to ND.6 and by 14 to 16 per cent (again subject to negative indexation) at higher grades. The number of steps in grades ND.5 to ND.8 was increased to 18.

Many of the General Service category staff in New Delhi objected to the new scales in revision 29, amendment 1, as well. Over thirty of them, including the two complainants, filed appeals with the Regional Board of Appeal, also at New Delhi: Mr. Madan did so on 5 April 1989 and Mr. Raman on 13 April. Both were at grade ND.X at the material time. The grounds for their appeals were incomplete consideration of the facts; failure to observe the WHO's rules, the terms of their appointments, the methodology and the CCAQ Manual; misapplication of the WHO's post classification standards; and personal prejudice. Each appellant sought, in substance, the quashing of the application to himself of the scales in revision 29, amendment 1, damages for moral injury and costs.

Five Regional Boards were set up to hear different groups of appeals. They reported on 18 January 1990. Though they found no evidence of personal prejudice, they were unanimous in holding that the Organization had acted in breach of the methodology and the Manual and had had no "rational basis" for issuing the scales in amendment 1, which "violated the rights acquired by the staff members" under revision 29. They recommended "a uniform across-the-board increase of 9.2 per cent without any negative indexation" for all General Service category staff in New Delhi as from 1 April 1988; the restructuring of the scales so as to keep the same number of salary steps as before in all grades and maintain "inter-step and inter-grade differentials" in line with the methodology and the Manual; the redetermination of step 1 of grade ND.X; and the review of salaries of staff in ND.7 and in particular the matter of the grant of additional steps.

The Regional Director rejected those recommendations in letters which he sent the complainants and other appellants on 19 April 1990. Just under thirty New Delhi staff, again including both the complainants, filed appeals on 11 May 1990 with the headquarters Board of Appeal pressing their original pleas and claims.

In its report of 29 April 1991 the Board concluded, with one dissenting opinion, that, though there had been neither personal prejudice nor misapplication of the rules and classification standards, the full facts had not been considered. It expressed surprise at the Organization's "high-handed approach", as shown for example in its failing to explain the changes made by amendment 1 of revision 29. It held that only a comprehensive survey afforded a proper opportunity for structural change. It recommended granting all the General Service staff in New Delhi as from 1 April 1988 9.2 per cent increases - which it held that the mini-survey had suggested they were entitled to - subject only to the "negative indexation" that had been in force at that date. It also recommended awarding reasonable costs.

In letters of 12 July 1991 the Director-General informed the appellants that, though he understood why the Board had made its recommendation for the 9.2 per cent increase, he rejected it because it would mean little or no increase in salary for grades ND.1 to ND.6 and "significant recoveries" from staff in grades ND.7 to ND.X. He

agreed to meet reasonable costs.

Those are the final decisions the complainants are impugning.

B. The complainants give a detailed account of the second mini-survey and of the appeal proceedings and submit that for several reasons the decisions they impugn are unlawful.

One or the other or both put forward the following main pleas.

(1) In Mr. Madan's view the Organization acted in breach of WHO Manual paragraph II.1.40.1, which says that staff shall receive equal pay for equal work. Under the 1988 scales he was, he says, paid less than others to whom he was senior in grade and in length of service. He cites by way of example cases of junior staff who as from 1 April 1988 were paid more than certain senior staff he names. Such treatment harmed his material interests and caused him distress and humiliation. It was also in breach of Staff Regulation 3.2, which requires that the salary levels of staff shall be determined "on the basis of their duties and responsibilities".

He appends a table of figures which he says shows the "dwindling level of his monthly incremental benefit" as against the other General Service staff in lower grades.

Mr. Raman too alleges breach of II.1.40.1.

(2) The Organization misapplied paragraphs 59, 60 and 62 of the methodology and Part II.D.5.3 of the CCAQ Manual. Both documents provide that each grade shall ordinarily have between 9 and 12 steps, excluding longevity steps, and that the number of steps shall not change between comprehensive surveys.

The adjustments in revision 29, amendment 1, were flawed in that the number of steps in grades ND.1 to ND.8 was increased to 18 or 19. That increase caused the complainants injury because the financial value of each step in their grade, ND.X, fell accordingly.

Secondly, the methodology and the Manual provide that the "inter-grade differential", i.e. the difference in percentage between grades, should be between 15 and 35 per cent. The differentials in the new scales ranged between only 10 and just over 18 per cent.

Thirdly, the methodology stipulates that the "inter-step differential" shall be between 3 and 5 per cent of step 1 of the grade and uniform throughout the grade. The new differentials diminished in terms of percentage from step to step and were under 3 per cent in the higher steps.

Fourthly, both methodology and Manual prescribe an "across-the-board increase" if the mini-survey so warrants. Yet revision 29, amendment 1, applied different percentages of increase to different grades.

The complainants observe that the Regional Boards' conclusions supported their contentions and in particular rejected the WHO's view that creating more steps was a proper solution to the problem of keeping some staff at the top of their grade for too long.

(3) Mr. Madan alleges flaws in the proceedings before the headquarters Board of Appeal.

(a) The Board's chairman issued an unsigned notice on 7 May 1990, before the Board had even received some of the full statements of appeal, to say that since processing all the appeals "would require an enormous amount of time and work" he would "accept only one", Mr. Marwah's, the first to have been filed. Only in response to protest did the chairman back down, in a letter of 12 June from the secretary to the Board, and accept the other appeals.

(b) The Board took almost a year to report, though Rule 1230.3.3 requires it to do so within 90 days of the filing of the full statement of appeal. The Director-General took 74 days to decide on the Board's recommendations, though 1230.3.2 requires him to do so within 60. The Regional Boards were also dilatory in reporting and the Regional Director in taking his decision.

(c) In her letter of 12 June 1990, mentioned in (a) above, the secretary to the headquarters Board invited the appellants to exercise their right, under Rule 19 of the Board's Rules of Procedure, to object to not more than two of the proposed members of the Board. By a letter of 21 June Mr. Madan informed the secretary of his objections

and of the members he preferred. Yet the Board that heard his complaint was not as he had asked. Since he never waived his objections, that was a serious flaw.

(4) The headquarters Board recommended a 9.2 per cent increase for everyone and made it "subject only to negative indexation". Negative indexation is not provided for in the rules.

(5) In Mr. Madan's submission the impugned decision shows personal prejudice. In Judgment 495 (in re Olivares Silva) the Tribunal held that the first and greatest safeguard against prejudice was procedural requirements, whose "main object is to exclude improper influences". In this case several procedural requirements were overlooked. The decision was also in breach of his acquired rights.

(6) Mr. Madan contends that there was no proper participation by the staff in the mini-survey.

(7) The way of determining the first step of his grade, ND.X, in revision 29, amendment 1, was "unconventional" and the Organization failed to explain how it had reached the figure. Its departure from the former method of reckoning was in breach of an acquired right and arbitrary.

Mr. Madan asks the Tribunal:

(1) to annul the 1988 survey or order the restructuring of revision 29, amendment 1, in accordance with the methodology and the CCAQ Manual;

and to order the WHO:

(2) to "refix [his] salary effective 1 April 1988 at least as has been the long-established practice since 1972 on the basis of ND.X/step 1 = ND.8/last step plus R[upee]s 2,000 or more";

(3) to "link, and fix, ND.X ... equivalent to NO-C/step 8 (= ND.X/step 1 basis) at least from 1.1.1987 ... to be followed likewise by interim adjustments of 1.4.1988 (8.6%)";

(4) to grant him a salary increase of "at least ... 25.2% ...";

(5) to restore his acquired rights and pay the arrears due to him;

(6) to "ensure adequate/commensurate increased monthly incremental benefit";

(7) to ensure a "12-month interim-adjustment policy" such as the methodology requires;

(8) to ensure that "amounts paid as `financial supplement' and `arrears'" for 1986, 1987 and 1988 and called "special allowance" in February 1989 be "included for all purposes for pensionary benefits, etc.";

(9) to abandon negative indexation with effect ab initio;

(10) to admonish the responsible staff of the Organization;

(11) to pay him 30,000 United States dollars in damages for moral injury and $5,000 in costs.

He also invites the Tribunal to grant any other relief it deems fit.

Mr. Raman asks the Tribunal to order the WHO:

(1) to "refix [his] salary effective 1 April 1988, as has been the practice so far, so that step 1 of grade ND.X is equivalent to the last step of ND.8 plus approximately Rs. 2,000";

(2) to revise the salary of ND.X and refix it as equivalent to the current level of a National Officer at C level in the United Nations Development Programme/United Nations Children's Fund at New Delhi;

(3) to stop paying General Service staff in New Delhi "special allowance not to be considered for pension purposes";

(4) to abandon negative indexation with effect ab initio;

(5) to pay him $30,000 in damages for "prejudicial treatment" and "mental suffering"; and

(6) to pay him $2,500 in costs.

C. In its replies to the two complaints the WHO gives its own version of the facts that have prompted the dispute and submits that the pleas summed up in B above are devoid of merit.

(1) "Negative indexation", which means "freezing" the salaries of higher General Service grades, does not offend against the principle of equal pay for equal work. According to revision 29, amendment 1, grades were still properly structured according to a rising scale: for example salary was higher at the lowest step of grade ND.X than at the lowest step of ND.8 and higher at step 10 of ND.7 than at the same step of ND.6. Equal pay was paid for the performance of duties classified in the same grade, whatever the grade might be. Although some staff in the higher grades fared less well than others, that was the inevitable effect of indexation: an interim increase applied in full to grades in which salaries were not "frozen" but only in part, if at all, to grades in which they were. But that was no impairment of the principle of equal treatment in Manual paragraph II 1.40.1. At headquarters in Geneva many General Service staff earn more than Professional category staff.

(2) The methodology offers mere advice and guidance and allows for a flexible approach that may take account of local circumstances. That is plain from its use of terms like "desirable", "should" and "normally". So the Organization was free, for example, to adopt inter-grade differentials outside the range of 15 to 35 per cent. It was also right to increase the number of steps within grades because the comprehensive 1986 survey had already revealed that local employers gave more than 15 and the increase in steps improved the lot of General Service staff who had reached the top of their grade and so could get no further increment.

As measured not in percentages but in actual amounts, the inter-step differentials remained uniform in each grade in the 1988 salary scales. What the methodology requires is that the amounts be uniform; it is therefore impossible for the percentages to be uniform as well.

The 1986 survey revealed that, although in grades ND.1 to ND.4 salaries were in line with the best prevailing local rates, in ND.5 and above they were higher. Since there was therefore no question of increasing them, the scales of 1985 continued to apply unchanged to those higher grades and the inter-step differentials therefore held good.

It is mistaken to allege that an "across-the-board increase" is to be granted as a result of each interim adjustment. True, the methodology says that salary increases intended to reflect trends in local pay "should normally be expressed as a single percentage" not affecting inter-grade and inter-step differentials, and the CCAQ Manual too provides that such increases "would normally be in the form of a single across-the-board percentage" which would not alter such differentials. But the Manual adds that there may be a flexible approach if it serves better the fundamental purpose, which is to reflect the best local rates of pay. The term "normally" also allows of flexibility.

(3) The staff representatives were given every opportunity to take part in the survey throughout, although for reasons of their own they chose not to attend some of the Local Committee's meetings.

(4) Negative indexation is a practice aimed at keeping salaries in line with the best local rates. Applying it in this instance caused the complainants no financial loss. There are precedents for applying it in the United Nations system both to the General Service and to the Professional categories of staff. It is only reasonable that there should be no express provision for it in the WHO's written rules since it is a practice the Organization will follow only when sound financial management and good staff relations so require. The practice is no less lawful for not being embodied in the rules. It is immaterial that the methodology and the CCAQ Manual do not provide for it since those texts are not binding in law anyway.

(5) It is absurd to suggest that the findings of a mini-survey intended to update salary scales could be tainted with personal prejudice against the complainants or be in breach of their acquired rights. Judgment 1160 dismissed similar allegations about the 1986 and 1987 surveys.

The WHO submits that the mini-survey duly followed the procedure set out in the methodology and the Manual and complied with its own rules and practices. It abided by the precedents set in earlier mini-surveys. Moreover, the complainants suffered no financial loss on account of the application to them of the resultant salary scales.

D. In their rejoinder the complainants enlarge on their earlier pleas.

They submit that much of the WHO's reply to their complaints is irrelevant, inconsistent or gratuitous.

Mr. Madan develops his arguments on the main issues, contending that the Organization has either ignored them altogether or supplied an inadequate reply. They include the proper manner of determining step 1 of ND.X; the lack of staff participation in the survey; the violations of the methodology, the CCAQ Manual, the post classification standards, the WHO rules, his own acquired rights and the principle of equal pay for equal work; the unlawfulness of negative indexation; and the flaws in the appeal proceedings. He points out what he sees as many misrepresentations in the Organization's version of the facts.

Mr. Raman dwells at length on his contentions that the WHO acted in breach of the methodology, the CCAQ Manual, its own rules and his own acquired rights. He brands as "grotesque" the structuring of the salary scales and particularly objects to the fixing of step 1 of grade ND.X, which he says has caused him "substantial financial losses", as well as "tension, distress, demoralization and agony". He submits in particular that there was incomplete consideration of the facts within the meaning of Staff Rule 1230.1.2; that the WHO's defence of negative indexation does not hold water; and that he was the victim of personal prejudice.

Both the complainants submit that since Judgment 1160 set aside decisions to apply the findings of the 1987 salary survey as reflected in revision 28 the implication is that the findings of the 1988 survey are invalid as well: revision 29, amendment 1, cannot hold good now that the Director-General has to take a new decision on the scales that it is based on. The WHO'S plea that the 1988 survey complied with the methodology and the CCAQ Manual has therefore become irrelevant. Since the Tribunal has held that the 1987 survey, and by implication the 1986 one, were not properly carried out, the 1988 one must have been flawed too in that it followed the same methods and procedure.

E. In its surrejoinders the Organization submits that both rejoinders go over much-trodden ground and raise no new issue of fact or law that calls for any development of its replies. It points out, however, that the complainants are guilty of distortion in inferring from Judgment 1160 that the 1986 salary survey was not carried out in accordance with the methodology and the Manual. All that the Tribunal said - under 12 - was that it would "proceed on the assumption that the 1987 survey was not properly carried out". It did not rule on the merits of the 1986 survey at all because it upheld the Organization's objections to the receivability of the earlier complaints on that score.

The WHO observes that the Tribunal acknowledged the validity of negative indexation in Judgment 830 (in re Kossovsky and Shafner-Cherney) even though the relevant instruments made no express provision for it. So did the CCAQ in a document which it published in 1989 (ACC/1989/6, paragraph 62 b)) and which the Organization quotes.

Lastly, the Organization states that in execution of Judgment 1160 the Director-General wrote the complainants letters of 30 April 1992 which said:

"As you know, the 1987 mini survey only updated the results of the 1986 comprehensive salary survey. However, in order to lay to rest this long-standing complaint, but without prejudice to the legal principles involved in the decisions relating to those surveys, I am prepared to offer you a lump-sum payment based on the overall results of the 1987 interim adjustment to be applied across the board. Of course, the supplementary financial compensation given to you as per the memorandum of Director, Support Programme of 24 May 1989 would be deducted. I am also prepared to apply this decision to the 1988 mini survey."

The Director-General further stated that, if the complainants accepted that offer, they should withdraw their complaints.

The Organization submits that the offer is fair and reasonable and invites the Tribunal to endorse it and accordingly dismiss the complaints as devoid of substance.

CONSIDERATIONS:

1. Judgment 1190 (in re Bansal No. 2 and others), also delivered this day, explains how the salary scales known as "revision 29" and "revision 29, amendment 1" came to be applied as from 1 April 1988 to the General Service

category of staff in the WHO's Regional Office for South East Asia in New Delhi. The scales applied to the present complainants: at the material time each of them was at step 12 in grade ND.X. That grade was introduced in 1972 and the first step was set at the level equivalent to the last of ND.8 - step 15 - plus some 2,000 Indian rupees. Under revision 29, amendment 1, the number of steps in ND.8 was increased to 18 but the first step of ND.X continued to be equivalent to step 15 of ND.8, plus some 2,000 rupees.

The complainants' claims are set out in B above.

2. In their joint report of 18 January 1990 the Regional Boards of Appeal recommended recalculating step 1 of ND.X by reference to the top step of ND.8. In its report of 29 April 1991, however, the headquarters Board observed that the method of determining step 1 of ND.X was just a practice, not a rule, and decided to make no recommendation for retroactive amendment of the ND.X scale. The Organization has not specifically addressed the complainants' claim in this regard in its submissions to the Tribunal.

3. There is some inconsistency in the complainants' arguments. They point out that the number of steps in each grade should ordinarily remain unchanged from one comprehensive survey to the next; yet they rely on the increase in the number of steps in ND.8 made as a result of the 1988 mini-survey to back up their claim to a rise in salary at step 1 of ND.X, with consequential increases throughout the scale.

4. There is inconsistency, too, in the justification the Organization offers for the increase in the number of steps in grades ND.5 to ND.8. It says in its reply that the local employers in New Delhi who were taken by way of comparison in the mini-survey "gave a higher number of annual increments (steps) than 15" and "this was more true for the lower grades than for the top grades". Presumably that means that in local employment in New Delhi the number of steps was greater in the lower than in the higher grades. Yet the Organization, having increased the number of steps in the higher grades, maintains that the effect was to make its scales reflect prevailing local practice more closely.

5. Mr. Madan and Mr. Raman claim an acquired right to have at the first step of their grade, ND.X, the equivalent of the top step of ND.8 plus some 2,000 rupees. That may be construed as a claim to have the first step of ND.X calculated by reference to step 15 of ND.8, which was the top step before revision 29 and revision 29, amendment 1, raised the number of steps in ND.8 to 18.

6. Were the increase in their salary to be based on realignment of the first step of ND.X with the equivalent of step 18 of ND.8 plus some 2,000 rupees, that would put their pay up by the equivalent of at least three annual increments at the ND.8 level. That would be a large increase to be made by way of interim adjustment of salaries, particularly when ND.X had just emerged from the freeze imposed in 1986 by means of negative indexation. The Tribunal will order no such increase since it does not want to distort the results of the comprehensive survey that was carried out in 1989. Since, however, the Organization has failed to give a coherent answer to the complainants' claim, they may not be denied redress. In the circumstances an award of damages will afford sufficient compensation, and the Tribunal sets it at 250 United States dollars for each of the complainants.

7. Although the complainants have other criticisms about the application of the methodology, there is no evidence to suggest that they were caused any injury. The inter-step differentials in their grade were constant throughout and were not reduced. The inter-grade differential for their grade was well in excess of the 15 to 35 per cent range recommended in the methodology.

For the same reasons as are stated in Judgment 1190, there is no need to order changes in the structure of the scales as they applied to the complainants.

8. The complainants further claim the restructuring of the salary scale of ND.X "as equivalent to the current level of a National Officer at C level in the [United Nations Development Programme/United Nations Children's Fund] at New Delhi". The claim is to regrading and must be seen as alternative to the claim to have at the first step of ND.X the equivalent of the top step of ND.8 plus some 2,000 rupees. The Regional Boards of Appeal recommended granting the latter claim and did not specifically address the alternative claim to regrading, which became lost sight of in the complexities of the multiple appeals.

In its submissions to the Regional Boards the Organization argued that the claim to regrading should form the subject of a separate appeal and as such go through the usual channels and procedure. That approach would be the

correct one. The present case centres on the scales that were adopted as a result of the 1988 mini-survey and it is not appropriate to entertain the claim to regrading in this context.

9. The complainants ask that the practice of granting non-pensionable special allowances to ND.5 staff should cease and that all payments should be pensionable. Since the claim did not form part of their internal appeals they have failed to exhaust the internal means of redress and the claim is therefore irreceivable under Article VII(1) of the Tribunal's Statute.

10. The complainants' objections to negative indexation are rejected for the reasons set out in Judgment 1190 under 17.

In particular Mr. Madan's claim to a 25.2 per cent salary increase, representing the negative indexation applied plus the 9.2 per cent average increase, is unsustainable. If the negative indexation is taken into account, as it must be, he was granted much more than the average increase.

11. The complainants object to the delay in handling their case throughout, from the lodging of their appeals with the Regional Boards of Appeal until the case reached the Director-General. The Tribunal holds that the time the proceedings took, though long, did not amount to any wilful disregard of the complainants' rights but was accounted for by the large number of appeals and the complexity of the issues.

12. Mr. Madan puts forward further claims which Mr. Raman does not. Like Mr. Bansal - see Judgment 1160 under 18 and 19 - Mr. Madan too sought to exercise his rights under Staff Rule 1230.4.3 as to the membership of the headquarters Board of Appeal. By a letter dated 21 June 1990 he asked for two changes in the proposed membership, one being the Chairman and the other an alternate member appointed by the Director-General. Like Mr. Bansal's his request was ignored. For the reasons set out in Judgment 1190 under 20 he too is entitled to an award of compensation under Article VIII of the Tribunal's Statute for the injury caused to him by breach of the rule. The sum is set at $250.

13. Mr. Madan makes several claims as to the future determination of salary scales. He wants the Organization to ensure "adequate/commensurate increased monthly incremental benefit" because of the falling value of the rupee since 1975 and to apply a policy of interim adjustment every twelve months as prescribed in the methodology. He says that "if deviation became inevitable then this should be so communicated well in advance to all GS staff" in New Delhi. He asks the Tribunal to "admonish/censure the concerned staff officers of WHO" for behaviour he describes and reproves.

Such claims betray an utter misconception of the Tribunal's competence: suffice it to observe that the Tribunal will not declare what policies an organisation should adopt in future or hand out reprimands.

14. Since the complainants succeed in part they are entitled to awards of costs.

15. The applications to intervene, which are receivable under Article 17 of the Rules of Court, are allowed: the interveners have the same rights as the complainants themselves insofar as they are in like case in law and in fact.

DECISION:

For the above reasons,

1. The Organization shall pay each of the complainants 250 United States dollars in damages for the reasons stated in 6 above.

2. It shall pay Mr. Madan a further $250 in damages for the reasons stated in 12 above.

3. The Organization shall pay the complainants $250 each in costs.

4. The complainants' other claims are dismissed.

5. The interveners shall have the same rights as the complainants insofar as they are in like case in law and in fact.

In witness of this judgment Mr. Jacques Ducoux, President of the Tribunal, Tun Mohamed Suffian, Vice-President,

and Miss Mella Carroll, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 15 July 1992.

Jacques Ducoux
Mohamed Suffian
Mella Carroll
A.B. Gardner

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