

**FOURTH ORDINARY SESSION**

***In re* PLISSARD**

**Judgment No. 12**

THE ADMINISTRATIVE TRIBUNAL,

Having had referred to it a complaint made against the International Labour Organisation on 1 June 1954 by Mr. Roger Julien Plissard, formerly an official of the International Labour Office, who, having reached the retirement age on 1 August 1954, requested the extension of his appointment and whose request was refused by the Director-General on 2 March 1954;

Considering that the complainant has stated the object to be the following:

"to declare the cancellation of the decision of the Director-General of which I was notified on 2 March 1954;

to order the extension of my appointment beyond 1 August next;

should the above-mentioned measures be deemed impossible or inadvisable, to award me compensation, taking into account the damage suffered."

Considering that the International Labour Organisation, in its memorandum of reply, requested that the Tribunal be pleased to:

"dismiss the complaint on the merits, on the grounds that it fails to state a cause of action of non-observance in substance or in form of the terms of appointment of the official or of the applicable provisions of the Staff Regulations."

Considering that the complaint is receivable in form;

Considering that the complainant, an official of the International Labour Office since 26 February 1920, left the Office in 1940 as a result of the reduction of staff owing to the war, after having been given the option between suspension of his appointment and resignation in accordance with the terms of a decision reached by the Assembly of the League of Nations in December 1939; that, having chosen the latter course, he received the prescribed indemnity, that is to say the equivalent of one year's salary;

Considering that the complainant repeatedly asked for reinstatement with the ILO and was granted such reinstatement as from 1 January 1951;

Considering that both the letter of appointment and the letter of acceptance specified that the appointment was subject to the provisions of the ILO Staff Regulations;

Considering that, on 1 August 1954 the complainant was to reach the age of 60 years laid down in Article 50 of the ILO Staff Regulations as the normal age of retirement;

Considering that, on 15 November 1953, he submitted to the ILO a memorandum in which he requested that his appointment be extended beyond the age limit; that he drew attention to his many years of service before the war and to the fact that he had been reinstated as an official only after more than ten years;

Considering that the ILO informed the complainant that it did not consider there was any reason for making an exception to the general rule in his case;

Considering that the complainant alleges that he has suffered considerable damage owing to the fact that he was not reinstated until more than ten years after his resignation and was consequently deprived during that period of any possibility of making contributions to the Pension Fund and of being granted increments or promotion;

That, in consequence, since his reinstatement he has been able to make contributions only over a period of three and a half years, and is consequently entitled to a pension of only 160 Swiss francs per month; that, if his appointment was extended for five years, his future contributions would ensure him a monthly pension of about 400 Swiss francs;

Considering that it is established,

(1) That the complainant, in spite of the fact that the duties which he carried out since 1951 were entirely new to him, has always given complete satisfaction to his responsible chiefs;

(2) That the Deputy Director-General of the ILO, in a statement to the Administrative Committee on 11 March 1953 announced for the information of the staff as a whole:

"... while the Director-General did not propose at this stage to contemplate raising the retirement age provided for in the Staff Regulations, he would review individual cases on their merits at regular intervals and would propose to retain in service beyond the retirement age of 60 those officials whose services would be valuable to the Office if circumstances warranted it, and more particularly if there had been an interruption of service due to the reduction of staff consequent upon the outbreak of the Second World War...";

Considering that these two circumstances, while they may explain the disappointment felt by the complainant, in no way modify the express provision of the Staff Regulations; that Article 50 on which the complainant relies, states expressly that the Director-General may retain an official in service until he reaches the age of 65 years but that it grants the Director-General discretionary power to decide in which cases exception may be justified;

That this discretionary power is limited only by the obligation to consult the Administrative Committee in the event of the Director-General deciding to retain in service an official of a grade below that of counsellor;

That, in consequence, a contrario, in the event of a refusal of extension, the Director-General is not bound to effect any prior consultation, the obvious intent having been to limit extension to truly exceptional cases, and to ensure impartiality in such cases;

Considering that Article 109 of the Staff Regulations on which the complainant also relies, gives the Director-General the possibility of consulting the Administrative Committee on any question, but imposes no obligation on him in this respect;

Considering that, notwithstanding the good services rendered by the complainant, his excellent was record, the interval of ten years between his resignation and his reinstatement (to which he had no acquired right), his difficult financial situation and his family responsibilities, all of which circumstances must have led to most sympathetic consideration of his request for extension of his services, the judgment of the Director-General is final and is not subject in law to any rule which has not been observed;

That, in consequence, the Tribunal is not competent to judge the merits of the decision reached by the Director-General in the exercise of the powers conferred on him by the Staff Regulations (Judgment No. 8 of this Tribunal):

**ON THE GROUNDS AS AFORESAID**

Rejecting any wider or contrary conclusions,

The Tribunal declares the complaint receivable but unfounded.

In witness of which judgment, pronounced in public sitting on 3 September 1954 by His Excellency M. Albert Devèze, President, Jonkheer van Rijckevorsel, Acting Vice-President, and M. Iasson Stavropoulos, Deputy Judge called upon to sit in view of the inability of a titular Judge to attend, the aforementioned have hereunto subscribed their signatures as well as myself, Wolf, Registrar of the Tribunal.

(Signatures)

Albert Devèze

A. van Rijckevorsel  
Iasson Stavropoulos  
Francis Wolf

Updated by SD. Approved by CC. Last update: 29 May 2008.