

SEVENTY-SEVENTH SESSION

***In re* AHMAD (No. 4)**

(Application for execution)

Judgment 1361

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for execution of Judgment 1298 filed by Mr. Rashid Ahmad on 28 February 1994 and the reply of 1 April 1994 from the United Nations Educational, Scientific and Cultural Organization (UNESCO);

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written submissions;

CONSIDERATIONS:

1. In Judgment 1298 of 14 July 1993 the Tribunal set aside a decision by the Director-General of UNESCO confirming an earlier refusal to renew the complainant's appointment. It ordered the Organization to reinstate him in its employ as from 1 February 1992 at grade D.1 under a fixed-term appointment to expire on 14 July 1995; dismissed his claim to moral damages; and awarded him 3,000 United States dollars in costs.
2. UNESCO saw fit to apply on 2 November 1993 for review of Judgment 1298. In Judgment 1309 of 31 January 1994 the Tribunal dismissed its application as clearly irreceivable under Article 8(3) of the Rules of Court then in force.
3. In a letter of 20 August and a reminder of 9 November 1993 the complainant asked the Director-General to take action to execute Judgment 1298. All he got by way of reply was a letter dated 22 November from the Director of the Bureau of Personnel saying that the Director-General had "taken note of the contents" of his letters but had applied for review of the judgment.
4. The day after the delivery of Judgment 1309 dismissing the application for review the complainant sent the Director-General another letter asking him to take prompt action on Judgment 1298. The only answer UNESCO vouchsafed its employee was an acknowledgment of receipt of 17 February 1994 from the Director of the Bureau of Personnel saying that "Due note has been taken by the Director-General of the content of your letter".
5. The complainant has therefore had to come back to the Tribunal with an application for execution. He is asking it to order UNESCO to execute "Judgment 1298, as upheld by Judgment 1309" without further delay; grant him interest on the sums due; and award him moral damages for UNESCO's failure to execute Judgment 1298, and costs.
6. UNESCO's reply consists merely in an acknowledgment of receipt of the Registrar's letter forwarding the application and the comment that the Organization's Executive Board would be examining the matter "at its forthcoming session". The Organization makes no attempt to justify or even explain its posture.
7. The Tribunal reaffirms that its rulings have the force of *res judicata* and are binding on the organisations that have recognised its jurisdiction. Any organisation that offends against that rudimentary principle by refusing to give effect to judgments it does not care for is disregarding the rights of staff and its own interests and is acting in breach of the obligations that it has assumed by recognising the Tribunal's jurisdiction.
8. As to the complainant's reinstatement the Tribunal refers to its ruling in Judgment 1298 and sends the case back to the Organization for the immediate discharge of its obligations.

9. The complainant's claim to interest succeeds, and UNESCO must pay him interest to be reckoned at the rate of 10 per cent a year on the sums payable to him since the date of the ordered reinstatement and as from the date at which each monthly sum yet unpaid fell due.

10. Because of its dilatoriness UNESCO must further pay him 20,000 French francs in damages for all forms of injury he has sustained by reason of its failure to give effect to the Tribunal's rulings.

11. He is entitled to 5,000 French francs in costs.

DECISION:

For the above reasons,

1. The case is sent back to UNESCO for immediate reinstatement of the complainant in execution of Judgment 1298.
2. The Organization shall, as set out in 9 above, pay him interest at the rate of 10 per cent a year on the sums due.
3. It shall pay him 20,000 French francs in damages.
4. It shall pay him 5,000 French francs in costs.

In witness of this judgment Mr. José Maria Ruda, President of the Tribunal, Mr. Pierre Pescatore, Judge, and Mr. Michel Gentot, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 13 July 1994.

(Signed)

José Maria Ruda
P. Pescatore
Michel Gentot
A.B. Gardner