

**THIRTY-FIRST ORDINARY SESSION**

***In re GAUSI (No. 2)***

(Complaint supplementary  
to that of 19 October 1972)

**Judgment No. 224**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the International Centre for Advanced Technical and Vocational Training (International Labour Organisation) drawn up by Mr. René Antony Gausi on 6 May 1973, the Centre's reply of 17 August 1973, the complainant's rejoinder of 2 September 1973 and the Centre's surrejoinder of 14 September 1973;

Considering Article II, paragraph 1, of the Statute of the Tribunal and articles 9.3, and 12.1 of the Staff Regulations of the Centre;

Having examined the documents in the dossier, oral proceedings having been neither requested by the complainant nor ordered by the Tribunal;

Considering that the material facts of the case are as follows:

A. Up to 18 October 1972, the date preceding that on which Mr. Gausi lodged his first complaint, the train of events was as summarised in Judgment No. 223. On 18 October 1972 the President of the Staff Union of the Centre informed the Director of the material hardship caused to the complainant by the termination of his appointment, alluded to the effects of his superiors' "unfair" treatment on his health and asked the Director to grant him a further appointment to enable him to plan his future without having to worry about pressing financial problems. In a letter of 23 November 1972 to the President of the Staff Union the Director replied that since Mr. Gausi had lodged a complaint with the Administrative Tribunal he felt bound to refrain from acting on that request pending the hearing of the complaint. On 8 December 1972 the complainant sent the Chief of Personnel a letter enclosing a medical certificate and expressing the view that his poor health was due to the Centre's ill treatment of him. On 6 May 1973, when he lodged the present complaint, he had received no answer to his letter of 8 December 1972.

B. In view of his state of health and the Centre's failure to reply to his claims Mr. Gausi accordingly lodges the present supplementary complaint, in which he asks the Tribunal to protect his right to compensation to enable him to recover fully and find further employment. He submits the following claims:

"(a) Considering the unjustified and unfair treatment which I have suffered and the serious effects which it has had on my health and on that of my wife;

(b) Considering my present state of health and the Centre's continuing refusal to answer my claims,

I submit to the Administrative Tribunal of the ILO a supplementary complaint and pray that the Tribunal:

1. protect my right to compensation by ordering the refund of the medical expenses I have incurred since 31 July 1972; and
2. recognise my right to damages for subsequent disorders."

C. The Centre maintains that to be receivable a complaint should impugn a final decision taken after the exhaustion of internal means of redress. Mr. Gausi has failed to exhaust the internal means of redress inasmuch as, having received no answer from the Chief of Personnel, he failed to lodge with the Director a complaint under article 12.1 of the Staff Regulations. The complaint is therefore irreceivable on the grounds of his failure to exhaust internal means of redress. Insofar as the complaint relates to and is based on events before 19 October 1972, the date of the

first complaint, the Centre again considers it to be irreceivable. On 19 October 1972, the date of submission of the first complaint, the complainant was fully familiar with the train of events up to that date. He relies on no new fact relating to that period which he did not communicate to the Tribunal at that date. The purpose of the new complaint is simply to elaborate on or amend the list of claims in the first complaint. The Centre considers that to be just as irregular as trying to amend the claims in the original complaint. In its view the complainant is merely trying to have the time limits extended so as to increase the amount of damages. As to the merits, the Centre considers that to support his claim for damages the complainant should show that the Centre has disregarded some obligation, that he has suffered prejudice, that the Centre has committed some impropriety and that there is a causal link between that impropriety and the prejudice suffered. The complainant has utterly failed to do so.

D. The Centre accordingly asks the Tribunal to declare the complaint irreceivable and, subsidiarily, to dismiss it on the merits.

#### CONSIDERATIONS:

Insofar as Mr. Gausi's further request for compensation is based on facts prior to 31 July 1972, the Administrative Tribunal has dealt with his claims in Judgment No. 223 of today's date.

Insofar as Mr. Gausi is claiming compensation on account of circumstances or actions of the Centre subsequent to 31 July 1972, he had at the latter ate severed all his ties with the Centre and the dossier shows no trace of any action by the Centre subsequent to 31 July which might have arisen out of previous action or caused further injury to a former staff member who was no longer employed by the Centre.

#### DECISION:

For the above reasons,

1. No decision falls to be taken on Mr. Gausi's claims for compensation on account of circumstances prior to 31 July 1972.
2. The other claims in the complaint are dismissed.

In witness of this judgment by Mr. Maxime Letourneur, President, Mr. André Grisel, Vice-President, and the Right Honourable Lord Devlin, P.C., Judge, the aforementioned have hereunto subscribed their signatures as well as myself, Morellet, Registrar of the Tribunal.

Delivered in public sitting in Geneva on 22 October 1973.

(Signed)

M. Letourneur  
André Grisel  
Devlin

Roland Morellet