

THIRTY-SIXTH ORDINARY SESSION

In re GRAFSTROM (No. 2)

Judgment No. 273

(Application for interpretation of Judgment No. 257 in re Grafström)

THE ADMINISTRATIVE TRIBUNAL,

Considering the communication of Mrs. Inga Grafström of 14 August 1975 and the observations made by the United Nations Food and Agriculture Organization (FAO) on 12 November 1975;

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

Having examined the documents in the dossier, the material facts being as follows:

A. The application relates to Judgment No. 257 given on 5 May 1975 by the Administrative Tribunal at its Thirty-Fourth Ordinary Session. In her communication Mrs. Grafström asks why, considering that had she remained G.7 she would have reached step XI long before retirement, in its decision the Tribunal remitted the case to the Director-General to enable him to ensure that her pension is not less than it would have been if at the time of her retirement her pensionable remuneration had been the figure attached to G.7, step IX. She asks whether the Tribunal's decision may not be interpreted to mean that step XI should be regarded as her final level.

B. In its reply the Organization states that it has made arrangements to ensure that the complainant's pension is not less than it would have been if at the time of her retirement her pensionable remuneration had been as at G.7, step IX. The Organization considers this to be in line with the Tribunal's interpretation of the provision in Staff Rule 302.3103 for maintaining the pensionable remuneration at its previous level.

CONSIDERATIONS:

1. The complaint by Mrs. Grafström which was dealt with in Judgment No. 257 was based on the fact that promotion to the Professional category resulted in the complainant's pensionable remuneration being lower than it would have been if she had not been promoted from her grade of G.7. The issue between the parties was whether under the relevant Staff Rules any regard could be paid to this fact and the Tribunal decided that it could.

2. The complainant's letter of 14 August 1975, written subsequently to this judgment, asks whether the pensionable remuneration should be ascertained not merely by reference to her previous position in G.7 but specifically by reference to G.7, step XI, rather than G.7, step IX, which was the step mentioned in the decision in Judgment No. 257. Step IX was the level at which the complainant was at the time of her promotion. Step XI is the level to which she claims she would have been promoted had she remained in G.7. In her letter she points out that step XI is indirectly referred to in Judgment No. 257 in paragraph 4 of the considerations, since the figure of \$17,244 there mentioned is the figure appropriate to that level. She asks now that the decision in Judgment No. 257 should be interpreted in terms of G.7, step XI.

3. In the opinion of the Tribunal this would not be correct. It is one thing to say, as the Tribunal has said, that there must be taken into account changes affecting the pensionable remuneration of everyone in the General Service category; and another thing to say that inquiry must be made (in some cases it would be mere speculation) about what personal promotion in the General Service category a particular officer would have had if he or she had remained in that category and not moved to the Professional category. In Judgment No. 257 the Tribunal applied Staff Rule 302.3103 which said that "special arrangements may be made for maintaining the said remuneration at its previous level": the words "at its previous level" refer to the level which the staff member had reached when she was promoted.

DECISION:

For the above reasons,

The application for interpretation of Judgment No. 257 is 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 12 April 1976.

M. Letourneur
André Grisel
Devlin

Roland Morellet

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