

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

115th Session

Judgment No. 3243

THE ADMINISTRATIVE TRIBUNAL,

Considering the third complaint filed by Ms C. C. against the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 11 January 2011;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. Facts relevant to this case are set out in Judgment 2944, delivered on 8 July 2010, in which the Tribunal ruled upon the first and second complaints filed by the complainant.

2. In the present complaint, she is asking the Tribunal to set aside the Notice of Personnel Action of 19 June 2006, extending her fixed-term appointment from 1 September 2006, and to grant consequential relief.

3. On 5 August 2010 the complainant, who had held a post at UNESCO Headquarters before her appointment was terminated, as a

disciplinary measure for unsatisfactory conduct, by a decision taken on 16 February 2007 and confirmed on 28 August 2008, submitted a protest under paragraph 7(a) of the Statutes of the Appeals Board, alleging that the above-mentioned Notice of Personnel Action was unlawful. By a letter of 21 October 2010, which constitutes the decision impugned in this third complaint, she was informed that the Director-General had decided to reject her protest “as manifestly irreceivable for lack of *locus standi* and because it is time-barred, and also on the grounds that the UNESCO Appeals Board is not competent to review Judgment [...] 2944 [...], by which the decision to terminate [her] appointment on disciplinary grounds became *res judicata*”.

4. Paragraph 7(a) of the Statutes of the Appeals Board reads as follows:

“A staff member who wishes to contest any administrative decision [...] shall first protest against it in writing. The protest shall be addressed to the Director-General through the Director of the Bureau of Human Resources Management, within a period of one month of the date of receipt of the decision [...] contested by the staff member if he is stationed at Headquarters [...].”

5. It is apparent from the file that the complainant received the Notice of Personnel Action that she is contesting during the month of July 2006, when she was still employed. Her protest was lodged only on 5 August 2010, well after she had left UNESCO, and in spite of the fact that she no longer had access to its internal means of redress, which are confined to “staff members”, as pointed out in Judgment 2944, under 20. On that date, according to paragraph 7(a) of the Statutes, the time limit for her action had long expired.

6. The Tribunal concludes from the foregoing that the complaint before it is clearly irreceivable according to Article VII, paragraph 1, of its Statute (see Judgments 1256, under 3, and 2781, under 7) and that it must be dismissed in accordance with the summary procedure provided for in Article 7 of its Rules.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 26 April 2013, Mr Seydou Ba, President of the Tribunal, Mr Claude Rouiller, Judge, and Mr Patrick Frydman, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 4 July 2013.

Seydou Ba
Claude Rouiller
Patrick Frydman
Catherine Comtet