

THIRTY-NINTH ORDINARY SESSION

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

In re QUANSAH

Judgment No. 329

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint brought against the International Labour Organisation (ILO) by Mr. Sinclair Tennyson Quansah on 22 September 1976, which was posted on 28 September to the Staff Union of the International Labour Office, forwarded by the Staff Union to the Registry of the Tribunal on 5 October, brought into conformity with the Rules of Court on 29 October and received in due form and registered on 8 November, the ILO's reply of 3 December, the complainant's rejoinder of 2 February 1977 and the ILO's surrejoinder of 28 February 1977;

Considering Article II, paragraph 1, and Article VII of the Statute of the Tribunal and Articles 13.1 and 13.2 of the ILO Staff Regulations;

Having examined the documents in the dossier and disallowed the complainant's application for oral proceedings;

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

A. The complainant joined the staff of the International Labour Office on 8 December 1968 at grade P.2/P.3 on a one month appointment which was extended in turn to 31 January, 30 April, 31 May, 31 July, 31 August and 31 December 1969. On 1 January 1970 he was given a one-year appointment which was extended in turn to 30 April 1971, 31 August 1971, 31 December 1971, 30 April 1972 and 30 June 1972. On 4 May 1972 he was sent out to Dar es Salaam (Tanzania) as deputy director of the ILO area office there at grade P.4 and had his appointment extended to 10 May 1974.

B. The ILO says that the complainant could not "maintain good working relations" with the director and fellow staff members and so on 1 October 1973 it sent him to Lusaka (Zambia) as deputy director of the area office there. But in Lusaka, says the ILO, he got on no better with the director and the staff than he had in Dar es Salaam. He asked for another post and the ILO tried to find him one, but, mainly "because of lack of resources", to no avail.

C. In May 1975 the complainant was warned that there was a strong chance his appointment would not be extended after it expired on 30 September 1975. In fact it was, to 31 December 1975, to enable him, says the ILO, to take home leave. Nothing came of the efforts to find him some other post and he was asked to stay on in Lusaka after 1 January 1976. He declined.

D. The Director-General decided on 29 October 1975 not to extend the complainant's appointment beyond 31 December 1975, and he was so informed on 31 October. In a cable of 28 November he expressed surprise at the decision, but it was confirmed by cable of 3 December. On 27 February 1976 he said he wished to appeal under Article 13.2 of the Staff Regulations. On 6 April, over three months after leaving the ILO, he contended that the Decision not to extend his appointment had been prompted by "adverse reports" on him by his supervisor. On 26 May 1976 the Deputy Director-General of the ILO in charge of the General Administration Sector rejected that contention: the only reason for the decision was that he had been unwilling to stay on in Lusaka and there were no resources for any other possible posting for him.

E. By letter of 17 June 1976 the complainant contested parts of the Deputy Director-General's letter of 26 May. Since the matter could not be settled under the internal appeals, procedure he asked to have it put to the Administrative Tribunal. The Personnel Department received that request on 1 July 1976. On 6 July it sent him a copy of the Statute and Rules of Court of the Tribunal and seven copies of the form for introducing proceedings and said that he was free to go before the Tribunal. The complaint is dated 22 September 1976 and was posted on 28 September and received in the Registry of the Tribunal on 5 October.

F. The complainant asks the Tribunal -

(a) to investigate the reasons why all his letters to the Regional Director of the ILO in Addis Ababa complaining of maltreatment by the area director were completely ignored by the Regional Director in spite of Articles 13.1 and 13.2 of the Staff Regulations;

(b) to "investigate the authenticity of adverse reports" on him made by the area director in Lusaka on which the latter based his recommendation that the complainant's appointment should not be extended and to consider whether any reliance may be placed on the report of the area director, who, according to the complainant, had forced another ILO official to sign a false declaration against him;

(e) to investigate the circumstances in which the Regional Director for Africa, without looking into the area director's adverse reports, strongly supported the recommendation that the complainant's appointment should not be extended; and

(d) if the Tribunal finds in the complainant's favour, to recommend the Director-General to reinstate him.

G. The ILO observes in reply that the complaint, which the Registrar received on 5 October 1976, was lodged after expiry of the time limit laid down in Article VII of the Statute of the Tribunal and is therefore Irreceivable. It asks the Tribunal to dismiss the complaint.

CONSIDERATIONS:

Even on the hypothesis that the Director-General's decision of 26 May 1976 does not merely confirm that of 29 October 1975 but may be regarded as a new decision dismissing an informal appeal of 6 April 1976, any appeal against it ought to have been lodged with the Tribunal within ninety days after the date of its notification to the complainant.

That date cannot be later than 17 June 1976, when the complainant acknowledged receipt of the notification and objected to the decision.

The complaint was not lodged with the Tribunal until 28 September 1976 - after the ninety-day time limit had lapsed. Hence it is time-barred and irreceivable.

DECISION:

For the above reasons,

The complaint 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 21 November 1977.

(Signed)

M. Letourneur
André Grisel
Devlin

Roland Morellet