

## **FORTY-FIRST ORDINARY SESSION**

### ***In re* BASTANI**

#### **Judgment No. 353**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint brought against the International Centre for Advanced Technical and Vocational Training (International Labour Organisation) by Mr. Said Bastani on 6 September 1977 and the Centre's reply of 15 February 1978;

Considering Article II, paragraph 1, of the Statute of the Tribunal and the Staff Regulations of the Centre, particularly Articles 0.2, 4.2, 11.1, 11.2, 11.9 and 12.1;

Having examined the documents in the dossier, oral proceedings having been neither applied for by the parties nor ordered by the Tribunal;

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

A. On 10 October 1976 the International Centre for Advanced Technical and Vocational Training appointed the complainant as an interpreter in Farsee for a period expiring on 31 October 1977.

B. On 22 June 1977, at the official farewell ceremony of an advanced training course for Iranian students, the complainant broke into a speech by Mr. Sperling, Chief of the Research and Studies Department of the Centre, to indicate that he did not wish to be associated with the speaker's thanks to the students for their work and for having taken the course. Later at the same meeting he disrupted a speech by Mr. Charehsazan, the Iranian students' supervisor.

C. On 23 June 1977 Mr. Sperling and the Chief of Personnel of the Centre told the complainant that he was suspended from duty from that day in accordance with Article 11.9 of the Staff Regulations for a breach of Article 4.2. The complainant thereupon offered his resignation, which was accepted with effect from 1 July.

D. On 12 July the complainant lodged a formal "complaint" against the suspension of 23 June on the grounds that the Chief of Personnel had not been authorised to take such a decision and that, since it had forced him to offer his resignation, he wanted reinstatement or compensation equivalent to the expenses of his wife's confinement and three months' salary. On 13 July Mr. Sperling, who was then in charge of the Centre, dismissed the "complaint". On 20 July the complainant asked to have the decision reviewed, but it was upheld on 10 August by Mr. Cefalù, who was then in charge of the Centre. The complainant appealed to the Tribunal on 6 September 1977.

E. The nub of the complainant's case is that he was forced to resign by a decision to suspend him which was unlawful in form. He asks the Tribunal to order that he be paid three months' salary - \$3,600 - plus \$1,200 as repatriation expenses and \$1,200 corresponding to 80 per cent of the expenses of his wife's confinement, to which he would have been entitled had he remained on the Centre staff.

F. The defendant organisation contends that when a staff member fails to respect the obligation of reserve laid down in Article 4.2 of the Staff Regulations suspension is clearly warranted. The decision is not tainted with any irregularity since the Director was consulted and in any case did not even need to be. Lastly, the complainant's resignation cannot be set down to any pressure from the Centre. The claim for repatriation expenses has not been made before and so the internal means of redress have not been exhausted. For all the foregoing reasons the organisation asks the Tribunal to dismiss the complaint.

#### **CONSIDERATIONS:**

The complainant was appointed as an interpreter by the International Centre for Advanced Technical and

Vocational Training in Turin. On 22 June 1977 he quite improperly interrupted a statement by Mr. Sperling, Chief of the Research and Studies Department of the Centre, at the official farewell ceremony of an advanced training course for Iranian students.

On 23 June the Chief of Personnel immediately suspended the complainant from duty with effect from 10.15 a.m. The complainant thereupon at once resigned. His resignation was accepted and he was authorised to leave the Centre on 24 June.

It appears from the written evidence that the complainant resigned of his own free will and in particular suffered no coercion by the Centre or any of its staff. In resigning he himself broke off all connection with the international civil service.

It is true that later, on 12 July, he said that he had resigned only because he had been suspended from duty, by a decision taken without authority and therefore unlawful.

Even supposing that that statement were true, however, the argument runs counter to the general principles of the international civil service, whereby a supervisor may suspend from duty, forthwith and without formality, a staff member who is manifestly guilty of misconduct serious enough to make it clear that it is incompatible with the organisation's interests to keep him on the staff. Suspension is a provisional measure and reserves the staff member's rights; it should be followed by an inquiry which affords him full safeguards and as a rule requires notably action by the head of the organisation.

In this case the complainant caused serious incidents in front of the students. The Chief of Personnel could not allow such incidents to recur and it was incumbent on him to suspend the complainant from duty forthwith, the case being then referred to the Director of the Centre so that he might consider disciplinary proceedings.

It follows from the foregoing that the complaint must be dismissed.

DECISION:

For the above reasons,

The complaint is dismissed.

In witness of this judgment by Mr. Maxime Letourneur, President, 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 13 November 1978.

(Signed)

M. Letourneur  
André Grisel  
Devlin

Roland Morellet