

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**P. (Nos. 18 and 19)**

**v.**

**ITU**

(Applications for execution)

**123rd Session**

**Judgment No. 3724**

THE ADMINISTRATIVE TRIBUNAL,

Considering the third application for execution of Judgment 2551 and the application for execution of Judgment 3637 filed by Ms M. P. on 19 September 2016;

Considering the documents supplied on 27 October 2016 by the ITU at the request of the President of the Tribunal;

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

Having examined the written submissions;

**CONSIDERATIONS**

1. In Judgment 2551, delivered in public on 12 July 2006, the Tribunal referred the case back to the ITU for the latter to appoint a medical board to consider whether the illness leading to the termination of the complainant's contract was service-related or not and, if appropriate, to decide what additional compensation might be due to her. In its report of 21 August 2012 the Medical Board unanimously concluded that the illness which had led to the termination of the complainant's contract was 40 per cent service-related.

As the ITU refused to act on that conclusion, on 10 March 2014 the complainant filed an application for execution of Judgment 2551. This led to Judgment 3637, delivered in public on 6 July 2016, in which the Tribunal found that the ITU had failed to comply with the principle of good faith and had not executed Judgment 2551. It therefore decided to refer the case back to the ITU for the complainant to be paid the sums due to her in connection with her health condition on the basis of the Medical Board's report of 21 August 2012 (point 1 of the decision). It also decided to order the ITU to pay the complainant moral damages in the amount of 20,000 Swiss francs (point 2 of the decision) and 1,000 francs in costs (point 3 of the decision).

2. In her single brief pertaining to her applications for execution of Judgments 2551 and 3637, which the Tribunal will join, the complainant submits that the sums due to her pursuant to Judgment 3637 have still not been paid to her more than 60 days after the public delivery of that judgment.

3. Given that the execution of points 2 and 3 of the decision in Judgment 3637 entailed the payment of clearly determined sums, and as the complainant did not mention any payment in her brief, the President of the Tribunal decided, as an exceptional measure, to ask the ITU what steps it had taken to execute Judgment 3637. The ITU has furnished written evidence that on 14 July 2016, i.e. eight days after the public delivery of the aforementioned judgment, it paid the complainant the full amount of the moral damages and costs as ordered by the Tribunal. The ITU has also supplied evidence that the complainant was informed of this. It is verging on bad faith that she failed to mention those payments in her applications.

The ITU has also provided written proof that on 5 October 2016, that it to say within a reasonable period of time having regard to the circumstances, it paid the complainant a sum, plus interest, corresponding to the compensation due under point 1 of the decision in Judgment 3637. As the ITU has thus honoured its obligations under Judgments 2551 and 3637, the Tribunal considers that the applications for execution are moot and that the case is definitively closed.

4. The complainant submits various other claims for compensation. Contrary to her submissions, there is nothing in Judgments 2551 and 3637 to justify a request for compensation over and above the amounts stated in the decision of Judgment 3637. This is merely an indirect means of seeking a review of all the previous judgments concerning her.

It should be noted that in Judgment 3637 the Tribunal decided to dismiss the complainant's claims which were unconnected with the execution of Judgment 2551, and there are no grounds for reversing that decision.

5. It follows from the foregoing that both applications for execution must be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal. In these circumstances, the convening of the hearing requested by the complainant is unnecessary.

#### DECISION

For the above reasons,

The applications for execution are dismissed.

In witness of this judgment, adopted on 10 November 2016, Mr Claude Rouiller, President of the Tribunal, Mr Patrick Frydman, Judge, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 8 February 2017.

*(Signed)*

CLAUDE ROUILLER      PATRICK FRYDMAN      FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ