

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

K.
v.
WHO

120th Session

Judgment No. 3551

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr K. K. against the World Health Organization (WHO) on 24 March 2014;

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. The complainant formulates several claims arising out of a Special Service Agreement (SSA) that he concluded with WHO. Under a series of agreements of that type he worked for WHO in Bangladesh from May 2010 to December 2013. In particular, he challenges before the Tribunal the non-renewal of his last SSA, which expired on 31 December 2013.

2. The SSA on which the complainant bases his complaint expressly provided that the person with whom WHO concluded the contract would have the status of a contractor and would not be considered in any respect as a staff member of WHO. Clause 15 of the SSA also provided that any dispute relating to the SSA which could

not be resolved amicably or through conciliation would be settled by arbitration, unless the parties agreed on another mode of settlement.

3. The Tribunal clearly has no jurisdiction to hear this complaint. Pursuant to Article II, paragraph 5, of its Statute, “[t]he Tribunal shall [...] be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials” (emphasis added). The complainant stated in the complaint form that he filed the complaint in his capacity as a former official. However, according to the express terms of the SSA under which he was employed, the complainant did not have the status of a WHO official. As the complainant cannot be considered as an official or former official of WHO and is not covered by WHO’s Staff Rules and Regulations, he has no access to this Tribunal (see Judgments 1034, under 3, and 3049, under 4).

4. The Tribunal finds that the complaint is clearly irreceivable and must therefore be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal.

5. The Tribunal notes clause 15 of the SSA (settlement disputes), which provides for arbitration if necessary, and also notes that there is no time limit provided for in relation to the submission of the dispute to arbitration.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 8 May 2015, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 30 June 2015.

GIUSEPPE BARBAGALLO

MICHAEL F. MOORE

HUGH A. RAWLINS

DRAŽEN PETROVIĆ