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UNITED NATIONS JURIDICAL YEARBOOK

1966

Part Two. Legal activities of the United Nations and related inter-governmental organizations

Chapter V. Decisions of administrative tribunals of the United Nations and related inter-governmental organizations

CONTENTS (continued)

CONTENTS (continued)

Chapter V

DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

A. Decisions of the Administrative Tribunal of the United Nations[1]

1. JUDGEMENT NO. 98 (11 MARCH 1966):[2] GILLMAN v. SECRETARY-GENERAL OF THE UNITED NATIONS

Termination of the employment of a staff member holding a permanent appointment, on the ground of unsatisfactory service—Staff member's right to a complete, fair and reasonable procedure—Application of article 9.2 of the Statute of the Tribunal

The applicant requested the Tribunal to order the rescinding of the decision by which the Secretary-General had terminated her permanent appointment on the grounds of unsatisfactory service and record of attendance. The Tribunal noted that the contested decision had been taken on the basis of a recommendation by a working group of the Appointment and Promotion Board. It found that, as regards the appraisal of the applicant's performance, the report of the working group did not give an accurate account of the situation revealed by the periodic reports on the applicant, a situation confirmed by the evidence received by the Tribunal. As regards the finding by the working group that the applicant's record of attendance was unsatisfactory, the Tribunal observed that the group had not inquired whether part of the applicant's sick leave could have been caused by injuries sustained in a service-incurred accident. It considered, therefore, that one at least of the grounds for the termination was directly attributable to statements in the working group's report which failed to take into account all the factors in the case and, in particular, the circumstances of the accident in which the applicant had been injured. The Tribunal concluded that the applicant had been deprived of the complete, fair and reasonable procedure which must be carried out before the termination of a permanent appointment. On

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[1] Under article 2 of its Statute, the Administrative Tribunal of the United Nations is competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. Article 14 of the Statute states that the competence of the Tribunal may be extended to any specialized agency upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. By the end of 1966, two agreements of general scope, dealing with the non-observance of contracts of employment and of terms of appointment, had been concluded, pursuant to the above provision, with two specialized agencies: the International Civil Aviation Organization; the Inter-Governmental Maritime Consultative Organization. In addition, agreements limited to applications alleging non-observance of the Regulations of the United Nations Joint Staff Pension Fund had been concluded with the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the International Civil Aviation Organization, the World Meteorological Organization and the International Atomic Energy Agency.

The Tribunal is open not only to any staff member, even after his employment has ceased, but also to any person who has succeeded to the staff member's rights on his death, or who can show that he is entitled to rights under any contract or terms of appointment.

[2] Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. S. Petrén.

the basis of a request made by the respondent under article 9.2 of the Statute, the Tribunal remanded the case for correction of procedure and ordered that the applicant be paid as compensation an amount equivalent to three months' net base salary for the prejudice caused by the procedural delay.

2. JUDGEMENT NO. 99 (16 MARCH 1966):[3] MR. A. v. SECRETARY-GENERAL OF THE UNITED NATIONS

Claim for compensation for damage suffered by a staff member as a result of measures taken by the Medical Director and other officials—The conditions under which sick leave can be imposed constitute an element of the contractual relationship between the employee and employer—Respondent's right to impose sick leave upon a staff member but not to order him to undergo any special medical treatment

In September 1961 the applicant, who held at the time a fixed-term appointment with the Special Fund, was ordered by the United Nations Medical Director to take sick leave and instructed not to return to the office. When, on 5 October 1961, he disregarded that instruction and attempted to resume his duties with the Fund, he was committed to a private mental institution upon a petition signed by the Medical Director under the provisions of the applicable municipal law. Two weeks later, the applicant was repatriated to his home country. The applicant contended that the action taken by the Medical Director violated United Nations Staff Regulations and Rules and requested compensation for the injury sustained.

The Tribunal first considered a plea by the respondent that the application did not fall within its competence on the ground, *inter alia*, that the allegations contained therein were allegations of wrongful acts, not of violations of terms of appointment or contract of employment. The Tribunal observed that conditions under which sick leave could be granted to or imposed upon an employee necessarily constituted an element of the contractual relationship between the employee and his employer. Allegations that, in the case of a staff member of the United Nations, sick leave had been either refused or imposed and enforced in a wrongful way, including commitment to an institution for the mentally ill, implied that the staff member's terms of appointment had not been observed. The Tribunal decided, therefore, that the application fell within its competence as defined in article 2.1 of the Statute.

As regards substance, the Tribunal observed that, while the Staff Regulations and Rules should be interpreted as authorizing directed sick leave under certain conditions, they did not empower the Administration to order a staff member to undergo any special medical treatment. Furthermore, nothing in the applicant's behaviour had indicated a dangerous or violent mood calling for drastic measures. The Tribunal found, therefore, that the commitment of the applicant to a mental institution had violated his contractual rights. It decided, however, that such was not the case with his subsequent repatriation since the evidence showed that he had agreed to that measure.

As regards the prejudicial effect of the applicant's commitment, the Tribunal observed that any decrease in the applicant's possibilities of securing new employment had been caused not by the commitment but by the decision not to extend his appointment with the United Nations beyond 3 January 1962, a decision subsequently upheld by the Tribunal in Judgement No. 86. Finding, however, that the manner in which the commitment had been carried out had caused the applicant injury in the form of moral prejudice, the Tribunal ordered the payment of compensation in the amount of one thousand dollars.

[3] Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. S. Petrén.

3. JUDGEMENT NO. 100 (16 MARCH 1966):[4] MÉLY V. SECRETARY-GENERAL OF THE UNITED NATIONS

Right of a staff member holding a fixed-term appointment, improperly terminated before the expiration of his contract, to the total amount of his salary for the period from the date of the termination to the date of the end of the contract

The applicant requested the Tribunal to order the rescinding of the termination in 1961 of her one-year fixed-term appointment nine months before its expiration date and her reinstatement in the Secretariat of the United Nations or, alternatively, the payment of a lump sum compensation for the injury sustained.

The Tribunal observed that, after receiving in 1965 the report of the Joint Appeals Board on the case, the Secretary-General had decided that the termination of the applicant's appointment had been ill-founded and had awarded her part of the salary due for the uncompleted period of the appointment. The Tribunal found that, in view of that decision, the applicant was entitled to receive the total amount of the salary due for the uncompleted part of the appointment. The Tribunal ordered, therefore, that the necessary additional payment should be made to the applicant. Finding that the applicant's fixed-term appointment carried no expectancy of continuation of service beyond its expiration date, the Tribunal rejected her requests for reinstatement and additional compensation.

4. JUDGEMENT NO. 101 (5 OCTOBER 1966):[5] RAU V. SECRETARY-GENERAL OF THE UNITED NATIONS

Request for rescission of a decision by which a probationary appointment was converted into a fixed-term appointment not receivable, since the staff member concerned accepted the conversion—Rejection of a subsidiary request for rescission of a decision refusing a renewal of a fixed-term appointment—Discretionary power of the Secretary-General

The applicant, who entered the service of the United Nations in May 1961 under a short-term appointment with UNICEF as an IBM keypunch operator, received a probationary appointment, with the same assignment, in August 1961. In view of anticipated changes in the machine operation, she received, on the expiration of her probationary appointment in May 1963, a fixed-term appointment for one year which, in February 1964, was extended for one year. In April 1964, the applicant, rated as "a staff member who maintains a good standard of efficiency" in periodic reports for the periods from May 1961 to April 1963 and from May 1964 to April 1965, was informed that her conduct and work had been criticized by her supervisor. She challenged the validity of the criticism, asked to be transferred to another office and received several other assignments in succession. As her contract was not renewed on its expiry in April 1965, she instituted proceedings before the Joint Appeals Board which were unsuccessful. She then filed an application with the Tribunal, which included a request that it rescind the decision by which her probationary appointment was converted, in May 1963, into a fixed-term appointment and not into a permanent or regular appointment, or, as a subsidiary plea, that it rescind the decision by which she was refused a renewal of her fixed-term appointment in May 1965.

The Tribunal found that the principal pleas were not receivable since they were directed against a decision taken in 1963, which was not contested by her at that time under the applicable appeals procedure. It found the subsidiary pleas ill founded and noted that, under the terms of staff rule 104.12 (*b*), the fixed-term appointment does not carry any

[4] The Lord Crook, Vice-President, presiding; Mme P. Bastid, President of the Tribunal; Mr. S. Petrén.

[5] Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. L. Ignacio-Pinto.

expectancy of renewal or of conversion to any other type of appointment. The Tribunal noted that the respondent had been fully informed by the Joint Appeals Board of the manner in which the applicant's service had been evaluated and that, in those circumstances, the conclusion finally reached by the respondent was a matter within his discretion.

5. JUDGEMENT NO. 102 (10 OCTOBER 1966):[6] FORT V. SECRETARY-GENERAL OF THE UNITED NATIONS

Rejection of a request for rescission of a decision of the Secretary-General refusing to convert a short-term appointment into a one-year fixed-term appointment, there being no legal right to such appointment—Rejection of a subsidiary request for the payment of the allowances and benefits corresponding to such appointment

The applicant, having entered the service of the United Nations at Geneva in July 1964 on a short-term appointment which did not entitle him to any allowances, requested that the appointment should be converted into a one-year fixed-term appointment with retroactive effect to the date of his entry into service. This would have entitled him to an installation grant and, at the yearly rate, an education grant, post adjustment, assignment allowance and dependency allowance. The Administration granted him only a fixed-term six-month appointment, which entailed no installation grant and only half the amount of the yearly rate of the other grants. The applicant requested the Tribunal, as a principal plea, to rescind that decision and, as a subsidiary plea, to order the payment of grants and benefits appropriate to the appointment requested by him.

The Tribunal rejected the pleas. After consideration of the circumstances relating to the applicant's contractual situation, it observed that at no time did the applicant receive from any authorized official any communication promising or holding out any hopes that his request would be satisfied. It therefore found that the applicant had no legal right to receive a fixed-term appointment for one year and that, by the same token, he was not entitled to the allowances and other benefits which would have resulted from the granting of such an appointment.

6. JUDGEMENT NO. 103 (11 OCTOBER 1966):[7] AZZU V. SECRETARY-GENERAL OF THE UNITED NATIONS

Request for rescission of a decision taken by the Secretary-General on the recommendation of the Advisory Board on Compensation Claims, on the grounds that the procedure did not meet the requirements of due process—Duty of the Respondent to respect the general principle that the requirements of due process must be observed

The applicant fell in the performance of his duties and in December 1961, on the recommendation of the Advisory Board on Compensation Claims, the Secretary-General determined that the applicant was suffering from total incapacity and authorized payment of the appropriate benefits and allowances. Since it appeared that his health had improved, the Advisory Board reviewed his case in January 1963 and recommended that all payments should be discontinued. The Secretary-General approved that recommendation and the applicant appealed to the Advisory Board which, in February 1965, reaffirmed its recommendation. When the Secretary-General decided in March 1965 again to approve the recommendation of the Board, the applicant submitted an application to the Tribunal and made the principal request that the Tribunal should rescind the decision of the Secretary-General

[6] Mme P. Bastid, President; the Lord Crook, Vice-President; Mr. F.T.P. Plimpton.

[7] Mme P. Bastid, President; Mr. H. Gros Espiell; Mr. F.T.P. Plimpton; Mr. L. Ignacio-Pinto, Alternate Member.

on the grounds that the procedure followed by the Board did not meet the requirements of due process.

The Tribunal noted that the applicant had been given no opportunity to explain his position on the issues which were to serve as a basis for the decision of the Advisory Board on Compensation Claims. It therefore found that the procedure followed by the Advisory Board in arriving at the recommendation approved by the respondent in March 1965 failed to meet the requirements of due process and, without determining the merits, remanded the case for correction of the procedure.

B. Decisions of the Administrative Tribunal of the International Labour Organisation[8, 9]

1. Judgement No. 91 (11 October 1966): Deschamps v. International Labour Organisation

Time-limit for appeal to the Tribunal—Mandatory character of the time-limit

The complainant, appointed as an expert for the ILO, had addressed a memorandum to the Resident Representative of the TAB on 2 May 1963, following differences with his supervisor, indicating his intention of submitting a complaint to the Director-General of the ILO and, possibly, of requesting its transmission to the Administrative Tribunal. On the advice of the Resident Representative, no further action was taken on the matter. On 10 May 1963, the complainant was informed that the ILO did not propose to renew his appointment, and his service came to an end on 31 October 1963. He made no formal appeal at that time. On 28 January 1965, the complainant asked for a review of his case. On 25 February 1965, his request was denied. He then filed a complaint, dated 30 July 1965 and actually dispatched on 9 August 1965. The complainant prayed the Tribunal to recognize that he had given a notice of his case on 2 May 1963 and that the absence of offers of further appointments which he had hoped to receive confirmed that he had been arbitrarily dismissed.

The Tribunal declared that the complaint was not receivable. It stated that article VII, paragraph 2 of the Statute of the Tribunal provided that to be receivable a complaint must have been filed within ninety days after the complainant was notified of the decision impugned. The memorandum submitted by the complainant to the Resident Representative on 2 May

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[8] The Administrative Tribunal of the International Labour Organisation is competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment, and of such provisions of the Staff Regulations as are applicable to the case, of officials of the International Labour Office and of officials of the international organizations that have recognized the competence of the Tribunal, namely, as at 31 December 1966, the World Health Organization, the United Nations Educational, Scientific and Cultural Organization, the International Telecommunication Union, the World Meteorological Organization, the Food and Agriculture Organization of the United Nations, the European Organization for Nuclear Research, the Interim Commission for the International Trade Organization/General Agreement on Tariffs and Trade, the International Atomic Energy Agency, the United International Bureaux for the Protection of Intellectual Property, the European Organization for the Safety of Air Navigation and the Universal Postal Union. The Tribunal is also competent to hear disputes with regard to the execution of certain contracts concluded by the International Labour Office and disputes relating to the application of the Regulations of the former Staff Pensions Fund of the International Labour Organisation.

The Tribunal is open to any official of the International Labour Office and of the above-mentioned organizations, even if his employment has ceased, and to any person on whom the official's rights have devolved on his death, and to any other person who can show that he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely.

[9] Mr. M. Letourneur, President; Mr. A. Grisel, Vice-President; Lord Devlin, Judge.

1963 could not be deemed to have the effect of bringing the matter before the Tribunal, since it referred only to an intention and was not meant for the Tribunal itself. The complaint itself had been dispatched on 9 August 1965—the only date which, under article 6, paragraph 3, of the Rules of Court, could be taken into account for the application of article VII, paragraph 2, of the Statute of the Tribunal—i.e. more than ninety days after the notification of the last of the decisions impugned.

In so far as the complaint might relate to the legality of the non-renewal of the complainant's appointment, the decision not to renew his appointment had been communicated to him on 10 May 1963; in so far as it might relate to the ILO's letter of 25 February 1965—even assuming that that might have implied a new decision—it was sufficient to note that any time-limit would have run from 25 February 1965. The Tribunal could not take into account the arguments based on equity which the complainant had put forward since the time-limit provided in its Statute was mandatory.

2. JUDGEMENT NO. 92 (11 OCTOBER 1966): VARLACOSTA PATRONO V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Ground relied on for termination—Official's right to be heard before a decision to his detriment is taken—Establishment of the date of termination

The complainant entered the service of FAO in 1956 under a contract of indefinite duration, and was informed on 29 December 1964 that her appointment would be terminated on 31 January 1965 in the interests of the Organization, under Staff Regulation 301.0913. On the appeal of the complainant, the decision to terminate her appointment was confirmed by a decision of 1 February 1965, but on the grounds of unsatisfactory service (Section 314.221 of the FAO Administrative Manual), while the period of notice was altered to begin as from the date of that new decision. The complainant appealed to the Appeals Committee of FAO, which recommended that the decision to terminate her appointment should be confirmed on the ground of the interests of the Organization instead of unsatisfactory service. The recommendation was accepted by the Director-General and, on 9 June 1965, the complainant was informed that her appointment had been terminated under Staff Regulation 301.0913. The complainant then prayed the Tribunal to rescind Section 331.332 of the Manual, on the basis of which she had been refused access to the full text of the report of the Appeals Committee, and to quash the decision to terminate her contract, on the grounds of incorrect application of Staff Regulation 301.0913 and of the retroactive character of the decision of 9 June 1965.

The Tribunal dismissed the complaint. On the rescinding of Section 331.332 of the Manual, it stated that since no provision in its Statute allowed it to rescind a general provision, it could only consider the legality of the provision impugned and, where appropriate, rescind the decision by which it was applied. In that connexion, it recognized that every official had the right to be heard before a final decision to his detriment was taken, and that that right implied the opportunity to consult the documents on which such a decision was based. The Tribunal considered therefore that, in transmitting to the complainant only the recommendations of the report of the Appeals Committee, the Organization had ignored the official's right to be heard. It observed, however, that the violation of that right could not constitute the basis of a claim unless it had actually affected the sense of the decision concerned. That had not happened in the case considered.

On the decision concerning termination, the Tribunal observed that, since the complainant had shown herself to be unfit for any permanent assignment and had received written warning, she could legitimately be terminated for unsatisfactory service under Section 314.221 of the Manual. In his subsequent decision to rely on Staff Regulation 301.0913, the Director-General had been acting at the request of the complainant who,

by pointing out in her memorandum to the Appeals Committee that the reproach of unsatisfactory service might reduce her chances of finding other employment, had implicitly asked that if the termination of her appointment were to be maintained it should be based on Staff Regulation 301.0913.

On the retroactivity of the decision impugned, the Tribunal observed that, although the decision of 1 February 1965 and the decision of 9 June 1965 relied upon different provisions, they were based on the same facts. The last decision, taken as a result of the complainant's appeal, confirmed the solution adopted earlier. Therefore, in taking that decision on 9 June 1965, the Director-General had acted correctly in fixing the date previously decided upon as the date at which the complainant's services should terminate.

3. JUDGEMENT NO. 93 (11 OCTOBER 1966): SAINI v. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

Termination of appointment "in the interests of the Organization"—Cases in which that ground for termination may be exercised—Requirement that extraordinary circumstances must exist—Extent of the Tribunal's authority to review when it is satisfied that such circumstances exist—Time-limit for appeal to the Tribunal

The complainant had been given a fixed-term appointment in Jordan. Following difficulties with his supervisor, the complainant was notified on 19 February 1965 that the Director-General had decided to terminate his services in the interests of the Organization. When the complainant asked why he had not been awarded an annual increment for the year 1964, he was advised, on 17 March 1965, that having regard to his conduct no increment could be awarded. On 23 April 1965, the complainant appealed against the decision to withhold his increment. He also appealed to the Tribunal to quash the decision to terminate his appointment on the grounds of illegality, and to order either that he be reinstated or that he be paid an indemnity.

The Tribunal allowed the complaint on the last two points. With regard to the decision to terminate the complainant's appointment, it stated that the Director-General had correctly based himself on Section 370.831 of the FAO Administrative Manual. That Section lists six grounds for termination, the sixth (paragraph (vi)) being that of the interests of the Organization on which the Director-General had based his decision. The Tribunal pointed out that if paragraph (vi) was read as granting an absolute power to the Director-General, all the other provisions in the section would be superfluous since in each of the five preceding cases it would inevitably be in the interests of the Organization to terminate the appointment. Moreover, if the power was absolute, it could be used to substitute the test of the Director-General's opinion for the test of fact. Paragraph (vi) therefore must be read subject to a condition limiting the type of case in which it could be exercised and would normally be used in the case of a satisfactory officer, when extraordinary circumstances required the termination of his appointment. The Tribunal emphasized that it was for the Organization to satisfy it that such extraordinary circumstances existed, and added:

> "If the Organization satisfies the Tribunal of this, the power arises. It is then for the Director-General to decide whether in these circumstances the interests of the Organization require the termination of the officer's appointment and the Tribunal will not interfere with that decision unless, on the one hand it may have been taken by a person without authority, or in an irregular form, or there has been a failure to comply with recognized procedure, or, on the other hand, it is tainted by an error of law or based upon materially incorrect facts, or essential material elements have been left out of account or obviously wrong conclusions have been drawn from the evidence in the dossier."

In the case in question, the Organization had failed to satisfy the Tribunal that any extraordinary circumstances existed. The facts it had relied on might justify action under

paragraphs (iv) or (v), but not under paragraph (vi). Having been satisfied that the request for rescission was well-founded, the Tribunal, exercising the option open to it under article VIII of its Statute, awarded compensation to the complainant.

On the withholding of increment, the Tribunal considered that the letter of 17 March 1965, even if constituting an explanation rather than a notification, had been unambiguous; the complainant had therefore been put in a position to lodge an appeal from that date. In view of Staff Rule 303.131, which provided a time-limit of two weeks, the appeal of 23 April 1965 was time-barred and could not be considered.

4. JUDGEMENT NO. 94 (11 OCTOBER 1966): PRASAD V. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (EXECUTION OF JUDGEMENT NO. 90)

Procedure for application of article VIII of the Statute of the Tribunal—Res judicata

In its Judgement No. 90 of 6 November 1965,[10] the Administrative Tribunal had quashed the decision of the Director-General of FAO to terminate the appointment of the complainant for unsatisfactory service. On 21 December 1965, FAO informed the Tribunal that it had assumed that, if the complaint was allowed, the Tribunal would make provision for alternative relief in lieu of reinstatement, and had therefore made no submissions on the matter. Having found, following Judgement No. 90, that reinstatement was impossible, it requested the Tribunal to decide, on the basis of article VIII of its Statute, that the complainant should be awarded compensation for the injury caused by the termination of his appointment. When informed of that application, the complainant submitted that he had requested reinstatement, that it was the Organization's responsibility to invoke article VIII of the Statute of the Tribunal before judgement was handed down, and that the Organization's application was therefore in violation of article VI of the Statute and should be dismissed.

The Tribunal dismissed the application of FAO. It recalled article VIII of its Statute, stating that, if the rescinding of the decision impugned or the performance of the obligation relied upon "is not possible or advisable, the Tribunal shall award the complainant compensation for the injury caused to him", and observed that the choice would be made either in the light of written or oral observations of the parties or of its own motion. By quashing, in its Judgement No. 90, the decision to terminate the complainant's appointment, the Tribunal had found that reinstatement was possible and not inadvisable. Its Judgement had disposed of the issues raised and the Organization could not reopen them. The Tribunal also stated that the complainant could in fact be reinstated, particularly since the Organization was not obliged to offer him the identical post he had occupied.

5. JUDGEMENT NO. 95 (11 OCTOBER 1966): L'ÉVÊQUE V. INTERNATIONAL TELECOMMUNICATION UNION

Since the parties were opposed with regard to the facts, the Tribunal had decided, in its Judgement No. 76,[11] to carry out an investigation of the case. In view of the fact that the complainant had accepted ITU's offer to settle the case out of court, the Tribunal recorded the complainant's withdrawal of suit.

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[10] See *Juridical Yearbook*, 1965, p. 217.

[11] See *Juridical Yearbook*, 1964, p. 215.

6. JUDGEMENT NO. 96 (11 OCTOBER 1966): JURADO v. INTERNATIONAL LABOUR ORGANISATION (NO. 17—TERMINATION OF APPOINTMENT)

Challenge to the competence of the Judges who examined an earlier action brought by the same complainant—Tribunal incompetent formally to communicate the dossier of a complainant to a Government—Abuse of the right of appeal to the Tribunal

The complainant, whose appointment had been terminated with an indemnity equal to three months' salary, requested the Tribunal, *inter alia*: (1) to declare certain Judges of the Tribunal disqualified; (2) to authorize him to communicate the dossier of his case to the Government of the country of which he was a national, and (3) to rescind the decision to terminate his appointment. The Tribunal dismissed the complaint. On point (1), it stated that neither the fact that two of the Judges who had sat in the case previously brought by the complainant[12] had been called upon to hear the present case, nor the fact that one was of Swiss nationality and sat on the Supreme Court could be regarded as a valid ground for objection to those Judges. On point (2), it stated that it was not competent. On point (3), the Tribunal observed that, while complainants had an absolute right to apply to the Administrative Tribunal without any restriction, that right was granted to ensure respect for their terms of appointment. It pointed out that by making repeated complaints against decisions which, in general, did not affect his rights as an official, the complainant had entirely perverted from its proper purpose the right of appeal to the Administrative Tribunal afforded to officials; his behaviour had shown repeated infringements of articles 1.1, 1.2 and 1.7 of the Staff Regulations and constituted serious misconduct which, under article 12.8 of the Staff Regulations, was such as legally to justify his summary dismissal without notice. Even assuming that the conditions specified in article 12.8 of the Staff Regulations had not been fulfilled there could be no question of quashing the decision impugned, but only of awarding the complainant compensation which, in the circumstances of the case, could not exceed the amount which the Organization had seen fit to award him *ex gratia*.

[12] See Judgement No. 70 of 11 September 1964 (*Juridical Yearbook*, 1964, p. 209).