

**TWENTY-SECOND ORDINARY SESSION**

***In re* CHADSEY**

**Judgment No. 135**

THE ADMINISTRATIVE TRIBUNAL,

Considering Judgment No. 122 dated 15 October 1968, by which: (1) the Administrative Tribunal quashed the decision of the Management Committee of the English Language Group of the World Postal Union communicated to Mr. Chadsey by letter of the Director-General of the World Postal Union dated 14 August 1967; (2) referred the case back to the World Postal Union (English Language Group) for a new decision on the application for a permanent appointment in the aforesaid group submitted by Mr. Chadsey; and (3) adjourned a decision on Mr. Chadsey's claim for compensation until the Management Committee had taken its new decision;

Considering the communication addressed to Mr. Chadsey on 26 March 1969 by the Director-General of the World Postal Union on behalf of the Management Committee of the English Language Group informing him that after reconsidering his application for a permanent appointment in conformity with Judgment No. 122 of the Administrative Tribunal the aforesaid committee had decided that the application could not be granted;

Considering that the terms of the aforesaid communication are as follows:

"Sir,

We refer to Judgment No. 122 of the Administrative Tribunal of the International Labour Organisation dated 15 October 1968 concerning the complaint you had lodged against the decision of the Management Committee of the English Language Group notified to you by our letter of 14 August 1967.

By the aforesaid judgment the Administrative Tribunal quashed the decision of the Management Committee of the English Language Group and referred back your case concerning your application for a permanent appointment, in accordance with the considerations of the judgment.

The Management Committee of the English Language Group has accordingly made a thorough examination of the problems raised by the implementation of the decision in the aforesaid judgment, a procedure which has inevitably involved delay in view of the wide geographical distribution of the members of the Management Committee who, as you know, represent a group of forty-eight member countries.

Having explained and analysed for the benefit of the other members of the Management Committee the legal consequences arising out of the aforesaid judgment, the Chairman called a meeting of the Committee on 7 March 1969 in Berne for the purpose of a full discussion and the taking of a decision on your case.

It is as a result of that discussion that we have been instructed, in accordance with the direction contained in the judgment, to inform you in our capacity as agent of the Management Committee of the English Language Group of the WPU that the Committee has decided not to approve your application for appointment to a permanent post in the Group. It considers that your irregular situation in regard to the military service laws of the country of which you are a national, the penal proceedings to which you are liable and your refusal to reply to the charge, of which you are aware, together with the reasons you have given for defaulting on your obligations as a citizen, are incompatible with the standards of integrity and morality commonly required of persons applying for permanent appointments in an international organisation and specified in the 1954 Report (1965 edition) of the International Civil Service Advisory Board of the United Nations. This report provides the standard against which all the international organisations measure the conduct of their international officials as regards the qualities of morality and integrity commonly required of persons holding international appointments or applicants for such appointments. Article 10 of the Regulations of the International Bureau of the WPU, which is applicable to your case by analogy, also specifies integrity as one of the preconditions for the recruitment of its permanent employees.

Apart from this major objection, which in itself rules out your application, there are certain secondary practical considerations arising out of the fact that owing to your liability to penal proceedings in the country of which you are a national, your mobility would be restricted in the event of your services being temporarily required in the United States or in any country reached by travel through United States territory, a fact which would inevitably reduce the efficiency of the service.

For the aforesaid reasons, we regret to inform you on behalf of the Management Committee of the English Language Group of the WPU that your application for permanent appointment to the aforesaid group cannot be accepted.

I am, etc."

Considering complainant's memorandum dated 13 May 1969 praying the Tribunal to award him damages amounting to five years' salary, and the reply of the World Postal Union dated 16 June 1969 praying that complainant's claim should be dismissed as unfounded;

Considering complainant's rejoinder in his memorandum dated 4 July 1969 and the further reply of the Organisation dated 1 August 1969;

#### CONSIDERATIONS:

In his memorandum of 13 May 1969 Mr. Chadsey claims, first, that the decision dated 26 March 1969 by which the Director-General of the International Bureau of the World Postal Union notified him of a decision of the Management Committee of the English Language Group rejecting his application for permanent appointment in the Group was in violation of Judgment No. 122 of 15 October 1968 of the Administrative Tribunal; and, secondly, that he should be awarded compensation for the prejudice he had suffered through the two illegal decisions of 14 August 1967 and 26 March 1969.

As to the claim that the judgment of the Administrative Tribunal was ignored:

Examination of the aforesaid judgment shows clearly that the Administrative Tribunal quashed the decision of 14 August 1967, rejecting Mr. Chadsey's application for the first time because of the objections of a member State of the Organisation to that application, on the ground that it was based solely on a reason which was tainted by illegality, and referred complainant back to the Management Committee of the English Language Group for a new decision to be taken on complainant's application for permanent appointment after considering, in the light of all the evidence in the dossier, whether complainant did in fact meet the requirements for appointment as an international official.

It is clear from the terms of the decision of 26 March 1969 that before again rejecting Mr. Chadsey's application for appointment to a permanent post the Management Committee of the English Language Group did in fact consider the qualifications, morality and integrity of the applicant; so that it in no way infringed the Tribunal's judgment, but on the contrary conformed strictly to the considerations and decisions of the judgment of 15 October 1968.

As to the claim for damages:

It is clear from the evidence in the dossier that, in holding that because of his refusal to perform his military service in the country of which he was a national Mr. Chadsey did not meet the requirements for appointment as an international official, the Management Committee of the English Language Group was not basing its view on a consideration of principle, but on an examination of the circumstances in which the refusal had taken place; that accordingly the Committee's decision was in no way tainted by illegality; that, on the other hand, in pointing out that complainant had refused to present himself when called up for military service because this would have been inconvenient for him and would have interrupted his literary career - this being the reason given by complainant himself - the Committee did not base its decision on incorrect facts; and, finally, that, in concluding that complainant's explanation of his reasons for refusing to do his military service fully justified doubts as to his suitability for appointment as a permanent international official, the Management Committee made an appraisal which the Tribunal would be competent to review only if it were clearly false, which in the present instance is not the case.

It follows from what has been said above that the decision of 26 March 1969 is not tainted by illegality.

Accordingly, Mr. Chadsey's claim for damages is well founded only insofar as it rests on the prejudice arising out of the illegal decision of 14 August 1967 which lapsed on 26 March 1969, at which date the decision legally rejecting his application for permanent appointment was issued.

In these circumstances, a fair assessment of all the circumstances in the case would be made by granting Mr. Chadsey damages amounting to 30,000 Swiss francs, in compensation, in particular, for the prejudice caused to complainant by the state of uncertainty in which he found himself as a result of the rescinded decision.

DECISION:

For the above reasons,

1. The World Postal Union shall pay Mr. Chadsey a sum amounting to 30,000 Swiss francs.
2. The other claims submitted by Mr. Chadsey are 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, Bernard Spy, Registrar of the Tribunal.

Delivered in public sitting in Geneva on 3 November 1969.

(Signed)

M. Letourneur  
André Grisel  
Devlin  
Bernard Spy