

EIGHTIETH SESSION

In re SAUNDERS (No. 14)

(Application for review)

Judgment 1467

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 1093 filed by Mr. Yann Harris Saunders on 2 March 1995, the reply of 28 April of the International Telecommunication Union (ITU), the complainant's rejoinder of 30 May and the Union's surrejoinder of 20 June 1995;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written submissions;

CONSIDERATIONS:

1. This is an application for review of Judgment 1093 of 29 January 1991, which was about Mr. Saunders's third complaint. In that complaint he made the claim that his pensionable remuneration should be set at least at the level it would have reached at grade G.7 immediately before 1 January 1986, the date at which the ITU had granted him grade P.2. The Tribunal held that the grade of his permanent appointment up to the date of his attaining grade P.2 had been G.5 and not G.7. It accordingly dismissed his complaint.
2. In this application he says that he discovered in January 1995 that another official who had held grade G.6 before being promoted to P.2 on 1 January 1986 had had her pay reckoned on the strength of rates pertaining to grade G.7. He puts that forward as a new fact of which he was unaware at the time of the pleadings in his third complaint and which, had it then been known, would have swayed the Tribunal's ruling.
3. In its reply the Union points out that the official who had held grade G.6 had in 1979 been granted a special post allowance corresponding to G.7; in 1983 it granted her a special post allowance corresponding to P.2; in order to meet the requirements of Staff Rule 3.4.2.3 b) (formerly 3.4.2 c)) her pensionable remuneration was set as from 1 August 1984 at the rates corresponding to G.7; and the reason for the adjustment was that in the Union's view the change of the pensionable special post allowance from a grade in the General Service category to one in the Professional category amounts to promotion and is therefore covered by Staff Rule 3.4.2.3 b).
4. There is nothing in the case records to cast doubt on the accuracy of the Union's account of the other official's career. The complainant's situation was different. From September 1974 he was assigned to a P.2 post and was paid a P.2 special post allowance so that his pay came to the amount he would have earned if he had been promoted from his permanent grade of G.5 to the P.2 post. When he was transferred to a G.7 post in 1984 he kept his P.2 special post allowance. His substantive grade continued to be G.5 until he was appointed to his P.2 post with effect from 1 January 1986. His factual situation thus differed from the other official's in that he never held a G.7 post or a post with a G.7 special post allowance. The two different situations would produce different results when Staff Rule 3.4.2.3 b) was applied.
5. Since the facts on which the complainant relies afford no grounds for review of Judgment 1093, his application must fail.

DECISION:

For the above reasons,

The application is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Miss Mella Carroll, Judge, and Mr. Mark Fernando, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 1 February 1996.

William Douglas
Mella Carroll
Mark Fernando
A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.