

## THIRTY-SECOND ORDINARY SESSION

### *In re* CHAWLA (No. 2)

#### Judgment No. 234

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the World Health Organization (WHO) drawn up by Mr. Atam Parkash Chawla on 11 June 1973, the Organization's reply of 30 July 1973, the complainant's rejoinder of 29 August 1973 and the Organization's surrejoinder of 27 September 1973;

Considering Article II, paragraph 5, of the Statute of the Tribunal and WHO Staff Rule 236;

Having examined the documents in the dossier, oral proceedings having been neither requested by the parties nor ordered by the Tribunal;

Considering that the material facts of the case are as follows:

A. By Judgment No. 195 of 13 November 1972 the Tribunal ordered the Organization to pay the complainant (a) any arrears of emoluments due under his contract which expired on 28 February 1970 and (b) US\$20,000 as compensation for the moral and material damage suffered by him.

B. In his present complaint the complainant impugns two decisions of the Organization dated 27 March and 22 May 1973 and asks the Tribunal to order: (a) reimbursement of 571.10 Indian rupees to cover medical expenses incurred by him between 1 December 1969 and 28 February 1970; (b) payment of the education grant for his two children for the same period, from 1 December 1969 to 28 February 1970; and (c) payment of US\$2,000 as compensation for the loss suffered by him owing to the 10 per cent decline in the value of the dollar and to the Organization's delay in complying with this part of the Tribunal's Judgment, the indemnity of US\$20,000 having been paid only on 14 March 1973.

C. In its surrejoinder the Organization states that it has agreed to refund the medical expenses and will pay them to the complainant in due course. In its reply the Organization states that the children's education grant was paid on 21 June 1973. The complainant acknowledges this in his rejoinder and withdraws this particular claim.

D. In reply to the complainant's claim for compensation amounting to US\$2,000 for the loss allegedly suffered by him owing to the decline in the value of the dollar between 13 November 1972, the date of Judgment No. 195, and 14 March 1973, the date of the payment of US\$20,000 ordered by the Tribunal in that judgment, the Organization submits that during the relevant period the rate of exchange of the dollar fell from 7.63 to 7.60 rupees, so that the complainant sustained an actual loss of 600 rupees, or US\$83.33 calculated at the rate of 7.20 rupees to the dollar which was valid in July 1973, the date of the Organization's reply. It does not deny the delay in payment of the compensation ordered by the Tribunal in Judgment No. 195 and says that it has therefore taken steps to have the additional sum of US\$83.33 paid to the complainant. It rejects, however, the claims for the payment of other sums for the reasons given above.

#### CONSIDERATIONS:

As to the claim for reimbursement of medical expenses:

The Tribunal notes that by letter of 27 December 1973 the Organization accepted this claim. It is therefore unnecessary for the Tribunal to make any order thereon.

As to the claim for US\$2,000:

Upon well-established principles there can be no claim in respect of currency devaluation as such. But there can be a claim (which in substance is admitted by the Organization) for compensation for the unexplained delay in making the payment of US\$20,000. In the circumstances of this case this compensation should be assessed as the diminution in the amount of rupees eventually received by the complainant, the diminution being due to the change

in the rupee/dollar rate during the period of delay. The parties are not agreed upon the extent of this diminution. The Organization contends that during what it takes to be the relevant period the fall was 3 rupees to the dollar while the complainant contends that during what he takes to be the relevant period the fall was 61 rupees to the dollar. In the opinion of the Tribunal the relevant period begins on 14 December 1972, one month after the Judgment was notified, and ends on 14 March 1973 when the payment was made. The amount of compensation should be ascertained by taking the difference between the rates as quoted on the international exchanges on these two dates.

#### DECISION:

For the above reasons,

The appeal is allowed to the extent aforesaid; and it is ordered that the Organization pay to the complainant compensation calculated as above.

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, Morellet, Registrar of the Tribunal.

Delivered in public sitting in Geneva on 6 May 1974.

M. Letourneur  
André Grisel  
Devlin

Roland Morellet