Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

G.

v.

ILO

130th Session **Judgment No. 4312**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr S. J. B. G. against the International Labour Organization (ILO) on 10 May 2018, the ILO's reply of 15 June, the complainant's rejoinder of 12 November and the ILO's surrejoinder of 12 December 2018;

Considering Articles II, paragraph 1, and VII of the Statute of the Tribunal;

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

Considering that the facts of the case may be summed up as follows:

The complainant challenges the decision not to reclassify his post.

On 20 October 2015 the line manager of the complainant requested, pursuant to paragraph 9 of Circular No. 639 (Rev. 2), that the post held by the complainant in the International Labour Office ("the Office") at grade P3, be reclassified.

On 11 March 2016 the complainant was informed that following a technical evaluation, it had been confirmed that his post was at P.3 level. On 7 April 2016 the complainant filed an appeal with the Independent Review Group (IRG) to challenge that decision. In its report of 22 January 2018, the IRG found that the request for the complainant's post to be reclassified was unwarranted and therefore recommended that the post be kept at grade P.3. On 9 February 2018 the complainant was informed that the Director-General had decided to endorse that recommendation. That is the impugned decision.

The complainant asks the Tribunal to set aside that decision and order a fresh review of the classification of his post. He also claims compensation for the material and moral injury that he considers he has suffered.

The ILO asks the Tribunal to dismiss the complaint as irreceivable for failure to exhaust internal remedies and as unfounded.

CONSIDERATIONS

1. The complainant seeks the setting aside of the Director-General's decision of 9 February 2018 endorsing the recommendation of the IRG to keep the complainant's post at grade P.3.

2. The complainant submits that the reform on which the ILO embarked in 2013 has led to organisational changes which have entailed alterations to officials' duties and responsibilities. He contends that those alterations cannot be properly taken into account by the existing matrixes and generic job descriptions, which have become "obsolete". He observes that job descriptions have been updated in some field offices and that the ILO has not ruled out the possibility that such a process will take place in the future for Professional category posts at Headquarters.

The complainant submits that the classification rules have become inappropriate, but he does not, in any event, provide any evidence that they have become unlawful. The ILO must therefore apply them in compliance with the principle *tu patere legem quam ipse fecisti*, according to which "[a]ny authority is bound by the rules it has itself issued until it amends or repeals them" (see Judgments 963, consideration 5, and 3883, consideration 20).

The Organization cannot therefore be criticised for applying the rules in force.

3. The complainant submits that the majority of the duties he performs correspond to grade P.4 and encompass two job families.

The classification of posts necessarily involves the exercise of value judgements as to the nature and extent of the duties and responsibilities of the posts and it is not the Tribunal's role to undertake that evaluation (see, for example, Judgment 3294, consideration 8). That classification is a matter within the discretion of the executive head of the

organisation or the person acting on her or his behalf (see, for example, Judgments 3082, consideration 20, 4040, consideration 3, and 4186, consideration 6). That is why it is well established in the Tribunal's case law that the grounds for reviewing the classification of a post are limited and ordinarily a classification decision would only be set aside if it was taken without authority, was made in breach of the rules of form or procedure, was based on an error of fact or law, overlooked an essential fact, was tainted with abuse of authority or if a truly mistaken conclusion was drawn from the facts (see, for example, Judgments 1647, consideration 7, and 1067, consideration 2).

In its report, the IRG considered the complainant's duties in great detail. After a thorough examination, it concluded that the request for reclassification of the complainant's post was unwarranted and therefore recommended that it be kept at grade P.3.

The complainant merely asserts in general terms that his duties correspond to grade P.4 and he refers to the observations which he made to the IRG, but he does not explain where the IRG made an error.

This plea must therefore be rejected.

4. The complainant notes that the consultant who conducted the technical evaluation of his post was subsequently among those who provided training courses to IRG members. In his view, that evidences a conflict of interest and casts reasonable doubt on the IRG's impartiality.

According to the description of the mandate of the IRG, which was established pursuant to the Collective Agreement on a Procedure for Job Grading, the IRG is an independent and impartial advisory body responsible for job grading appeals (Article 1). Its members, who are appointed jointly by the Office and the Staff Union, receive internal training in classification and grading before taking up their duties (Article 4). They are to carry out their duties having regard to the highest standards of ethical and professional behaviour, integrity and objectivity (Article 6), and they may not receive instructions from any superior officer or from any other body or person (Article 7).

In the absence of any indication that the consultant exerted any influence on the members of the IRG with regard to the complainant's job grading appeal, the mere fact that, after having carried out the technical evaluation, she delivered training courses cannot reasonably suffice to cast even a semblance of doubt on the IRG's impartiality.

The plea is unfounded.

5. It follows from the foregoing that the complaint must be dismissed in its entirety, without there being any need to rule on the objection to receivability raised by the Organization.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 22 June 2020, Mr Patrick Frydman, President of the Tribunal, Ms Fatoumata Diakité, Judge, and Mr Yves Kreins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 24 July 2020 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN FATOUMATA DIAKITÉ YVES KREINS

DRAŽEN PETROVIĆ