

## TWENTY-FIRST ORDINARY SESSION

### *In re* DOUWES

#### Judgment No. 129

THE ADMINISTRATIVE TRIBUNAL,

Considering Judgment No. 125, by which the Tribunal gave an interlocutory decision ordering the Food and Agriculture Organisation of the United Nations (FAO) to produce copies of the letter dated 19 July 1963 from the FAO Country Representative in Guatemala, the letter dated 26 July 1963 from the Regional Representative of the United Nations Technical Assistance Board and Director of Special Fund Projects in Central America, the letter dated 13 August 1963 from the Deputy Regional Representative for Latin America (Northern Zone), and the letter dated 7 October 1964 from the Regional Representative of the United Nations Technical Assistance Board and Director of Special Fund Projects in Latin America;

Considering the letters of 19 July, 26 July and 13 August 1963 and 7 October 1964 communicated by the Organization in compliance with the aforesaid interlocutory decision of the Tribunal, complainant's observations of 10 January 1969, the Organization's observations made in reply thereto on 4 February 1969, and the complainant's letter of 17 February 1969;

Considering also the letter of 8 September 1964 from the FAO Country Representative in Guatemala communicated by the Organization at complainant's request, and complainant's observations thereon dated 14 February 1969;

Considering Article II, paragraph 5, of the Statutes of the Administrative Tribunal, Article 301.012 of the FAO Staff Regulations and sections 370.831(v) and (vi) and 370.333 of the FAO Manual;

#### CONSIDERATIONS:

By letter of 9 October 1964 the complainant was informed by the Industrial Crop Branch that because he had not been able to work harmoniously with his colleagues and to establish satisfactory relations with government officials a recommendation would be made to the Personnel Branch that his assignment should be discontinued from 31 January 1965. On 22 October 1964 the Personnel Branch gave notice of termination accordingly. Following upon representations made by the complainant, this notice was set aside in order that the Organization might explore with the complainant the possibilities of a future assignment. On 4 March 1965 the complainant was given a second notice of termination, the ground for this being the interests of the Organization, to take effect on 15 March 1965. Subsequently, however, the complainant was offered the post in Surinam, which he accepted. This makes it unnecessary for the Tribunal to inquire whether either of the notices of termination is properly to be regarded as a disciplinary measure; and, if so, what justification there was for it. Indeed, the claim is put correctly by the complainant simply as being in respect of an unlawful and unjust withdrawal from Central America. The question is, therefore, whether the withdrawal of the complainant from his assignment in Central America and his transfer to Surinam were in the circumstances a proper exercise of the Director-General's discretion.

The Tribunal is satisfied that the Director-General's decision to transfer was taken purely in the interest of the Organization. Where this is the case, the Tribunal will not substitute its own judgment for that of the Director-General unless he has based his decision on incorrect facts or has failed to take essential facts into consideration or has drawn false conclusions from the documents in the dossier. In the present case, the fact, which emerges from the letters produced by the Organization in conformity with the Judgment No. 125 and which, indeed, is not disputed, that inharmonious working relations between the officers concerned in the project were endangering its success, was of itself sufficient, without inquiring into where the fault lay, to support the decision of the Director-General to move the complainant to another assignment.

#### DECISION:

For the above reasons,

The claim for unlawful and unjust withdrawal from Central America is dismissed.

In witness of this judgment, delivered in public sitting in Geneva on 17 March 1969 by Maxime Letourneur, President, M. 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.

M. Letourneur  
André Grisel  
Devlin  
Bernard Spy

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