

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

H. (No. 2)

v.

WHO

137th Session

Judgment No. 4812

THE ADMINISTRATIVE TRIBUNAL,

Considering the second complaint filed by Ms J. H. against the World Health Organization (WHO) on 5 May 2023 and corrected on 31 July 2023;

Considering Articles II, paragraph 5, and VII of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions of the complainant and the documents produced by WHO on 17 August 2023 at the request of the President of the Tribunal;

CONSIDERATIONS

1. At the material time, the complainant was serving as a technical officer in the Health Systems Governance and Financing Department at WHO Headquarters. On 15 October 2019, she lodged a formal complaint of harassment and abuse of authority by her supervisor to the Office of Internal Oversight Services (IOS). In October 2020, following an investigation, IOS sent its report to the Director-General in which it found that the complainant's allegations were substantially founded. It recommended that administrative and/or disciplinary action be taken against the complainant's supervisor. On 27 May 2021, the

complainant was informed that the Director-General had issued an “appropriate disciplinary decision” against her supervisor.

2. On 1 August 2021, the complainant submitted a request for redress for moral and material damages resulting from the harm she had suffered “as the result of [her] supervisor’s behaviour and the unduly extended length of time of the investigation”. Her request was rejected on 9 November 2021 on the grounds that all adequate and necessary steps had been taken to address her formal complaint against her supervisor, who had been dismissed for serious misconduct.

3. On 5 February 2022, the complainant lodged an appeal with the Global Board of Appeal (GBA), challenging the decision of 9 November 2021. The GBA submitted its report to the Director-General on 7 December 2022. On 30 March 2023, the complainant sent an email to the Director-General’s Office asking to be provided with a final decision on her appeal. Referring to Rule 670 of the GBA’s Rules of Procedure, she pointed out that the Director-General ought to have informed her of his decision within 60 days following receipt of the GBA’s report. She reiterated her request directly to the Director-General on 24 April 2023, specifically asking that a final decision be taken by 28 April at the latest.

4. Arguing that no express decision was taken on her claim within the sixty-day time limit provided for in Article VII, paragraph 3, of the Statute of the Tribunal, the complainant filed the present complaint on 5 May 2023, requesting that she be awarded moral and material damages.

5. On 2 June 2023, the complainant was notified of the Director-General’s final decision on her appeal, taken on the basis of the GBA’s report. In that decision, dated 11 May 2023, the Director-General endorsed the GBA’s recommendations according to which the complainant should be awarded 9,000 Swiss francs in moral damages and 2,000 Swiss francs in costs. At the request of the President of the

Tribunal pursuant to Article 7, paragraph 2, of the Tribunal's Rules, WHO submitted a copy of the final decision on 17 August 2023.

6. On 18 August 2023, in light of this development, the Registrar informed the complainant that the President had decided to apply the summary procedure set out in Article 7 of the Rules of the Tribunal to her second complaint and drew her attention to the fact that she could file, if she so wished, a new complaint impugning the Director-General's final decision of 11 May 2023.

7. Article VII, paragraph 3, of the Tribunal's Statute relevantly provides that "[w]here the Administration fails to take a decision upon any claim of an official within sixty days from the notification of the claim to it, the person concerned may have recourse to the Tribunal and her or his complaint shall be receivable in the same manner as a complaint against a final decision".

8. In the present case, as indicated above, the complainant's claim to be granted redress for the actions of her supervisor and the time taken to complete the investigation was rejected by a decision of 9 November 2021, which then became the subject of her internal appeal. Thus, although there may have been some delay on the part of the Director-General in taking the final decision on that appeal, she is obviously not in the situation contemplated by Article VII, paragraph 3, of the Tribunal's Statute.

9. The complaint is therefore clearly irreceivable and must be summarily dismissed in accordance with the procedure set out in Article 7 of the Rules of the Tribunal.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 17 November 2023, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 31 January 2024 by video recording posted on the Tribunal's Internet page.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

MIRKA DREGER