

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

A.
v.
WHO

140th Session

Judgment No. 5027

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Ms S. A. against the World Health Organization (WHO) on 11 February 2024;

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;

CONSIDERATIONS

1. The complainant worked for WHO from 2010 to 2015 under a Special Service Agreement and then under temporary appointments covering various periods between 2015 and mid-January 2024.

On 5 December 2023, she was orally informed that her appointment would not be extended due to severe financial and budgetary constraints. On 10 December 2023, she received a “Notification of completion of appointment” letter, dated 7 December 2023, indicating that her appointment would expire on 15 January 2024.

On 14 January 2024 – the day before leaving WHO –, the complainant argued that her appointment “was not completed but discontinued prior to its completion”. She therefore requested that the reason for “discontinuation” be corrected, that her contract be extended by one month and that the “Termination Notice” be sent to her. On

18 January 2024, WHO reiterated that her contract had not been terminated, but had expired upon completion and had not been extended for financial reasons.

2. On 1 February 2024, the complainant submitted a request for administrative review of the decision contained in the “Notification of completion of appointment” letter, requesting that it be set aside and that she be reinstated immediately or, failing this, that she be granted material damages. On the same day, she received a “Separation Letter” containing details of her separation entitlements and the clearance process. On 4 February 2024, she updated her administrative review request accordingly.

3. The complainant filed her complaint with the Tribunal on 11 February 2024, impugning the 1 February 2024 “Separation Letter”. She requests the Tribunal to suspend the decision to “terminate” her appointment and to order her immediate reinstatement, either until the end of the internal redress process or, if the Tribunal or its President authorises her to file a complaint directly with it, until the expiry of the “maximum agreed period of service”. Alternatively, she seeks material and moral damages.

4. According to Article VII, paragraph 1, of the Statute of the Tribunal, a complaint “shall not be receivable unless the decision impugned is a final decision and the person concerned has exhausted such other means of redress as are open to her or him under the applicable Staff Regulations”. The Tribunal has consistently held that, on the basis of these provisions, where the staff regulations lay down a procedure for internal appeal, it must be duly followed: there must be compliance not only with the set time limits but also with any rules of procedure in the regulations or implementing rules (see, for example, Judgments 4929, consideration 4, 3947, consideration 4, 3027, consideration 6, and 1653, consideration 6). The case law further states that a staff member of an international organisation cannot of her or his own initiative evade the requirement that internal remedies must be exhausted prior to filing a complaint with the Tribunal (see

Judgments 4634, consideration 2, 4056, consideration 4, 3458, consideration 7, 3190, consideration 9, and 2811, considerations 10 and 11, and the case law cited therein).

5. At the time she received the “Separation Letter”, the complainant was a former WHO staff member and, according to Staff Rule 1205, the internal dispute resolution mechanism was available to her. Prior to the receipt of that letter, she had already requested an administrative review of the 7 December 2023 “Notification of completion of appointment” letter informing her that her appointment would not be renewed upon its expiry. On 4 February 2024, she submitted an updated request for administrative review, in which she also referred to the “Separation Letter”. As the internal appeal procedure was ongoing, the complainant could not bring her complaint directly before the Tribunal without waiting for the outcome of that procedure.

Contrary to what the complainant seems to consider, the Tribunal does not have, in any event, the power to suspend the execution of a contested administrative decision during the internal appeal proceedings, nor does it have the power to allow a complainant to evade the requirement that internal remedies must be exhausted prior to filing a complaint with it. *A fortiori*, its President does not have such powers either.

6. Since the complainant has not exhausted the internal means of redress available to her, as required by Article VII, paragraph 1, of the Statute of the Tribunal, her complaint is 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 30 May 2025, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, René M. Vargas M., Registrar.

Delivered on 3 July 2025 by video recording posted on the Tribunal's Internet page.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

RENÉ M. VARGAS M.