

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

Z.
v.
ILO

141st Session

Judgment No. 5105

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr L. Z. against the International Labour Organization (ILO) on 29 November 2021 and corrected on 14 December 2021 and 20 January 2022, the ILO's reply of 15 February 2022, the complainant's rejoinder of 8 March 2022 and the ILO's surrejoinder of 19 April 2022;

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

Having examined the written submissions;

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

The complainant challenges his suspension from duty pending investigation into alleged misconduct in connection with outside activities, and his subsequent discharge for misconduct in connection with the publication of a defamatory blog.

The complainant is a former staff member of the International Training Centre of the ILO (the ITC-ILO or "the Centre"). He joined the ITC-ILO in 1997 under a short-term contract. In 1999, he was granted a fixed-term contract. From 2016 until 2018, he was involved in the Global Youth Leadership Academy (GYLA). In January 2019, he was transferred to the Brazil, Russia, India, China and South Africa (BRICS) desk and, in October 2020, he was temporarily assigned to the Turin School of Development.

On 14 September 2020, he submitted a complaint of harassment and discrimination against the Director of Training, ITC-ILO, alleging he had been subjected to resource deprivation, racial discrimination, personal attacks, abuse of authority and manipulation. This complaint was referred to a Commission of Inquiry for investigation. In its report of 8 April 2021, the Commission of Inquiry found by a majority that the complainant's allegations were unfounded.

On 15 January 2021, the complainant sent to the Director, ITC-ILO ("the Director"), a Minute with the title "Request for Investigation: the unethical conduct in [the Human Resources Services (HRS)] of ITCILO", in which he alleged that HRS had leaked confidential information and documents to his alleged harasser, and requested an investigation into the matter and a written apology from the person responsible for the leak.

On 28 April 2021, the Director informed the complainant of his decision to accept the Commission of Inquiry's investigative findings and to close his harassment complaint. The Director indicated that this was a final decision the complainant could impugn before the Tribunal.

On 30 April 2021, the complainant expressed his disagreement with the Director's decision, reiterated his request for an investigation into HRS's alleged leak of confidential information and threatened to resort to social media, newspapers, and the press for support and to "let the public in the world judge [his] case and give [him] the justice".

On 6 May 2021, the Director reiterated that, if the complainant was "not satisfied" with the outcome, he could file a complaint with the Tribunal.

By a Minute of 3 June 2021, the Deputy Director, ITC-ILO, informed the Director of allegations of misconduct on the part of the complainant in connection with unauthorized outside activities and recommended that he be suspended from work pending an investigation into his alleged wrongdoing. The matter was referred to the Office of Internal Audit and Oversight (IAO) for investigation and, on 7 June 2021, the Deputy Director, ITC-ILO, and the Officer-in-Charge, HRS, met with the complainant and handed him a Minute of the same date notifying him of the decision to suspend him with pay pending an

investigation into his alleged wrongdoing. The suspension was to take effect immediately and the complainant was requested to (i) remove any personal items from his office and return to HRS any information technology-related equipment in his possession, along with office keys, entry badges, and his United Nations *Laissez-Passer* (UNLP) issued by the ITC-ILO; (ii) refrain from purporting to represent the ITC-ILO during his suspension; (iii) refrain from returning to the Office or making contact with staff at any time during his suspension, unless specifically requested to do so by a representative of senior management or the IAO; (iv) provide HRS with his private contact details and not leave the duty station (Turin, Italy) without prior approval from the ITC-ILO; and (v) acknowledge receipt by signing and returning the Minute. The complainant refused to sign the 7 June 2021 Minute or to give up his UNLP, badge and office keys, and he also refused to remove his personal belongings from his office or to leave the ITC-ILO Campus when asked to by a security guard. The notice of investigation was served to the complainant on 9 June 2021.

On 29 July and 5 August 2021, the complainant enquired about the ongoing investigation and protested against what he considered was “inhuman treatment”, retaliation, unlawful detainment and racial discrimination constituting an affront to his dignity, liberty and right to work; he accused the ITC-ILO of inflicting “emotional harm and moral damage” upon him. The Director responded in writing on 10 August 2021. He provided additional explanations regarding the suspension decision, refuted the complainant’s accusations and, referring to a blog published by the complainant on 8 June 2021, under the title “ITCILO’s Secret Shame: Senior Management Deliberately Violated Human Rights”, along with pictures of colleagues, the Director warned him that publishing a blog with such unacceptable content constituted a violation of the Staff Regulations and a serious failure to observe the Standards of Conduct for the International Civil Service “calling for prompt and firm response”. He requested that the complainant immediately remove the posted material. On 13 August 2021, the complainant replied to the Director maintaining his allegations.

In a formal letter of charges, dated 18 August 2021, the Director informed the complainant of his decision to propose against him the sanction of discharge on the basis that he had made public pronouncements adversely reflecting on the ITC-ILO, used the media to further his interests and aired his private grievances in public, thereby failing to conduct himself in a manner befitting his status as an international civil servant. He invited the complainant to return a signed copy of the letter adding any comments he wished to make. On 26 August 2021, the Director informed the complainant that the proposed sanction would be communicated to the Joint Negotiating Committee for its report and observations.

In a letter of 13 September 2021, the Director noted that the complainant had not removed from the Internet his defamatory blog and informed him that, in view of the gravity of his misconduct, he had decided to apply against him the sanction of discharge. On 17 September 2021, the complainant was advised of the administrative formalities related to his separation, including the payment of one month's salary in lieu of notice and of 70,000 United States dollars as termination indemnity.

On 21 September 2021, the complainant filed a complaint with the Director against the ITC-ILO senior management, alleging violation of international conventions, racial discrimination, abuse of power, and retaliation. He sought the revocation of any sanctions imposed upon him prior to the completion of the ongoing investigation, an end to his continuous harassment, discrimination, persecution and retaliation, a public apology, assurances that he would not suffer retaliation in the future, the initiation of disciplinary action against the manager(s) involved in his harassment, and compensation for the physical and psychological harm inflicted upon him.

In a letter of 29 September 2021, the Director categorically denied the complainant's allegations and informed him that he could not give favourable consideration to his complaint or grant him the requested relief. This is the impugned decision.

The complainant requests that all disciplinary sanctions imposed upon him be revoked. He seeks reinstatement, a public apology, and an order that the ITC-ILO take disciplinary action against the responsible manager(s). He claims 1.5 million euros in compensation for the psychological and moral damage, psychological breakdown and material losses.

The ILO asks the Tribunal to dismiss the complaint as irreceivable and, in any event, as entirely devoid of merit.

After the filing of the present complaint, by a letter of 18 March 2022, the ad interim Director informed the complainant that the IAO had completed its investigation and issued its report, concluding that the complainant had breached the applicable rules by engaging in outside activities and using the ITC-ILO materials without permission. The ad interim Director stated that such a finding would normally call for the imposition of a sanction, but this was no longer possible since the complainant's contract of employment had been terminated.

CONSIDERATIONS

1. The complainant impugns the 29 September 2021 decision by which the Director dismissed his internal complaint, lodged on 21 September 2021, as partially irreceivable and unfounded in the remainder. In his internal complaint, the complainant had challenged:

- (i) the 28 April 2021 decision, whereby the Director deemed his harassment complaint against the Centre's Director of Training unfounded and closed the case;
- (ii) the 7 June 2021 decision, by which the Director suspended him from duties with pay, as a precautionary measure pending an investigation into possible misconduct, later specified as unauthorized outside activities; and
- (iii) the 13 September 2021 decision, whereby the Director applied to him the disciplinary sanction of discharge for serious misconduct.

In his internal complaint, the complainant further claimed to be a victim of persecution and retaliation by the Organization.

2. The complainant applies for oral proceedings and lists four witnesses.

The Tribunal observes that the parties have presented ample written submissions and documents, which have permitted the Tribunal to reach an informed and just decision on the case. Thus, the request for oral proceedings is rejected.

3. First, the Tribunal holds that any arguments and claims by the complainant concerning the 28 April 2021 decision to close his harassment complaint are irreceivable as time-barred. The 28 April 2021 decision was final and challengeable before the Tribunal within ninety calendar days, consistent with Articles 12.2. and 12.3. of the Staff Regulations and Article VII, paragraph 2, of the Tribunal's Statute. Additionally, the 28 April 2021 decision expressly informed the complainant of the available judicial remedy and its associated time limit. The complainant failed to challenge this decision before the Tribunal within the prescribed deadline.

4. Second, the Tribunal notes that the 7 June 2021 decision suspended the complainant from duties in connection with a pending investigation for possible wrongdoing other than that for which he was shortly after discharged. This investigation concerned possible unauthorized outside activities.

After the filing of the present complaint, by a letter of 18 March 2022, the ad interim Director informed the complainant that the IAO had completed its investigation and had issued its report on his alleged misconduct, concluding that during his employment with the ITC-ILO, the complainant had breached the applicable rules by engaging in an outside activity, using the ITC-ILO materials, without permission. The ad interim Director stated that such a finding would normally call for the imposition of a sanction, but this was no longer possible since the complainant's contract of employment had already been terminated. The 18 March 2022 decision is not the subject matter of the present complaint. Therefore, any pleas concerning the IAO's investigation related to unauthorized outside activities, which could be considered only as part of a challenge to the 18 March 2022 decision, are outside

the scope of the present complaint (see, for example, Judgments 4297, consideration 7, and 3958, consideration 16).

5. The scope of the present complaint is limited to the decision to suspend the complainant, the decision to discharge him, and the complainant's allegations that these decisions constitute persecution and retaliation.

The complainant presents his case in a brief and a rejoinder of approximately four pages each. He contends that:

- (i) the Organization “made false allegations” against him, treated him “as a suspect criminal”, and placed him “under home arrest, without giving any reasons, explanations or prima facie evidence”; he has not yet been provided with an investigation report into his alleged misconduct;
- (ii) he was deprived of his “job, income and identity”, and this amounts to an affront to his dignity, infringement of his liberty and right to work, and the infliction of emotional harm and moral damage;
- (iii) the decisions taken against him are tainted by racial discrimination, harassment, bullying, assault and violence in the workplace, abuse of power and retaliation, false allegations, slander and “frame-up”, and persecution;
- (iv) the alleged perpetrators of mistreatment were the Director, the Chief, HRS, and the ITC-ILO as a whole. He asserts they took the following improper actions to his detriment:
 - (iv.a) arbitrary suspension in June 2021 without communication or consultation;
 - (iv.b) false accusations “on the excuse of [his] blog since July [2021]”;
 - (iv.c) arbitrary termination of his employment in September 2021 without discussion or agreement;
 - (iv.d) arbitrary suspension of his salary in October 2021 without communication; and
 - (iv.e) arbitrary cancellation of his Italian identity card, his UNLP, and other documents in November 2021.

6. The complainant fails to allege any specific breaches of the Staff Regulations and does not establish any legal flaws in the proceedings culminating in the suspension decision and the disciplinary decision.

Regarding the suspension decision, the Tribunal recalls that, pursuant to Article 11.9 of the Staff Regulations:

“(a) If the Director considers, in circumstances which appear to call for the application of a sanction, that the continuance in service of the official concerned pending consideration of the matter may prejudice the service, the Director may suspend the official from his duties pending such consideration, the suspension being without prejudice to the rights of the official.

(b) Suspension may be with or without salary [...]”

Suspension is a precautionary measure falling within the Director’s discretion, if she or he considers that, pending an investigation into misconduct, the continuance in service of the official concerned may prejudice the service.

In the present case, the suspension decision was adopted in accordance with the statutory framework, as the complainant was under investigation for possible misconduct, identified as unauthorized external activities. He was duly informed of the suspension pending investigation by the Minute of 7 June 2021 and, on 9 June 2021, he participated in an online meeting with the IAO investigation team, and, on that occasion, he was served with a notice of investigation. Furthermore, he received additional explanations regarding his suspension via a letter from the Director dated 10 August 2021. Thus, the complainant’s contention that he was placed under “home arrest” without receiving reasons is unsubstantiated.

His contention that he has not been informed of the outcome of the investigation is misconceived and misleading. Indeed, after his suspension on 7 June 2021, he was discharged on 13 September 2021, based on a charge of misconduct distinct from that for which he was suspended. As a result, his suspension status ceased on 13 September 2021, albeit for reasons other than the conclusion of the investigation that grounded his suspension. Moreover, the suspension decision was adopted in connection with the investigation into his alleged

unauthorized external activities and given that, as already stated, this investigation falls outside the scope of the present complaint, the Tribunal cannot address any related pleas concerning the suspension decision.

7. As for the disciplinary decision, it was preceded by a letter dated 10 August 2021, in which the Director requested the complainant to immediately and unconditionally remove his blog dated 8 June 2021, entitled “ITCILO’S Secret Shame: Senior Management Deliberately Violated Human Rights”, and its annexed material – including pictures of colleagues published without obtaining their prior consent. This was followed shortly after by a formal letter of charges dated 18 August 2021. In the letter of charges, also considering the complainant’s 13 August 2021 reply to the Director’s 10 August 2021 letter, the Director stated that:

- (i) publishing a blog with fallacious and unacceptable content constituted a serious breach of Articles 4.2 and 4.3 of the Staff Regulations, the Standards of Conduct for the International Civil Service, and the Principles of Conduct for Staff of the ITC-ILO;
- (ii) the complainant had failed to conduct himself in a manner befitting his status as an international civil servant and to abide by his duty of tact and discretion by making public pronouncements that adversely reflect on the Centre, using media to further his interests, and airing his personal grievances in public;
- (iii) the complainant also violated his duties by disclosing confidential information and violating the privacy rights of his colleagues;
- (iv) since statutory procedures existed for bringing forward any grievances, rendering public any issues the complainant might have had with the Centre’s Administration for the sole purpose of tarnishing the Centre’s image and reputation was not seeking justice but amounted to gross misconduct;
- (v) the complainant’s conduct fell gravely short of the standards of loyalty and integrity that the Centre was entitled to expect of its staff; and
- (vi) the relationship of mutual trust and confidence had definitively broken down.

In light of the above and the fact that the complainant “persist[ed] in defying the Centre’s rules, [...] present[ed] no apologies or valid explanations and [...] show[ed] no intention to respect” (sic), the Director had decided to propose the sanction of discharge under Article 11.7 of the Staff Regulations.

The proposed sanction was communicated to the complainant in accordance with Article 11.2(a) of the Staff Regulations, and he was granted eight calendar days to comment.

The letter of charges of 18 August 2021 also made it clear that “the proposed disciplinary sanction for the irresponsible and defamatory publication is not in any way related to the ongoing investigation for alleged unauthorized outside activities”.

The complainant duly received the letter of charges on 20 August 2021, and a further reminder letter on 26 August 2021, but he did not provide his comments.

The disciplinary decision of 13 September 2021 noted that:

- (i) the complainant had not removed his defamatory blog;
- (ii) the complainant had neither presented any explanations nor expressed any apologies or regrets for his actions; and
- (iii) the blog contained “dishonest accusations, totally inappropriate language and contraven[ed] the most elementary ethical values and professional principles staff members are expected to honour at all times. It ha[d] led to an irreversible breakdown of the trust and loyalty relationship that render[ed] the continuation of [the complainant’s] employment unfeasible.”

In the disciplinary decision, the Director concluded that “[i]n view of the gravity of the misconduct, the absence of mitigating factors and for the reasons stated in [his] letter of 18 August, [he had] decided to apply the sanction of discharge [...] in conformity with Article 11.7 of the Staff Regulations”.

In the ensuing letter of 17 September 2021 concerning the administrative formalities related to his separation, the complainant was informed that, in lieu of the one-month notice period required by

Article 11.7 of the Staff Regulations in cases of discharge, he would receive a lump-sum payment.

The complainant does not allege any specific violations of the rules governing disciplinary proceedings and sanctions, as set out in Articles 11.1, 11.2, and 11.7 of the Staff Regulations, and it is not the Tribunal's role to review *ex officio* whether the disciplinary process complied with the applicable rules.

8. With regard to both the suspension decision and the disciplinary decision, the complainant contends they are arbitrary, based on false accusations, and tainted by racial discrimination, harassment, bullying, assault and violence in the workplace, abuse of power and retaliation, false allegation, slander and "frame-up", and persecution.

The Tribunal recalls that a complainant alleging that an administrative decision constitutes an act of harassment bears the burden of proof: an allegation of harassment has to be borne out by specific facts, the burden of proof being on the person who pleads it (see Judgments 4746, consideration 12, and 4241, consideration 9). The Tribunal has also held that conduct will not be characterized as harassment or mobbing if there is a reasonable explanation for the conduct in question (see Judgment 2370, consideration 17).

Likewise, the Tribunal's case law holds that the party asserting abuse of authority, bias, and improper motive must prove it (see Judgments 4524, consideration 15, 4467, consideration 17, 4146, consideration 10, 3939, consideration 10, 2264, consideration 7(a), and 2163, consideration 11). Mere suspicion and unsupported allegations are clearly not enough, the less so where the actions of the organization, which are alleged to have been tainted by personal prejudice, are shown to have a verifiable objective justification (see Judgment 4688, consideration 10).

The same principle regarding the burden of proof applies to retaliation: it is incumbent on the complainant to establish that the actions or conduct complained of were retaliatory (see Judgment 4363, consideration 12).

In the present case, the complainant's allegations of harassment, false accusations, retaliation, persecution, or other improper motives, are vague, speculative, and unsupported by evidence.

The suspension decision was lawfully adopted pending investigation into his alleged misconduct in connection with unauthorized and prohibited outside activities.

The disciplinary decision was based on proven facts, and the complainant has never explained, even before the Tribunal, why he published a manifestly defamatory blog and why sanctioning his conduct should be considered abusive or persecutory.

In conclusion, both the suspension decision and the disciplinary decision demonstrate a verifiable objective justification and cannot be characterized as prompted by improper or abusive motives.

9. The complainant also contends that his salary was arbitrarily suspended as of October 2021 without communication.

The Tribunal notes that there is no independent decision to suspend his salary as of October 2021; his salary was discontinued as a consequence of his discharge, effective September 2021. As a result, the cessation of his salary did not constitute an arbitrary act.

10. The complainant further contends that in November 2021, his Italian identity card, his UNLP, and other documents were arbitrarily cancelled. These documents are related to his status as a serving ITC-ILO official. Irrespective of the fact that the alleged cancellation has not been challenged internally, and, thus, any related claims before the Tribunal are irreceivable for failure to exhaust the internal means of redress, in any event, the Organization contends, without having been contradicted by the complainant, that the Centre sent him four reminders on 1, 15, and 20 October 2021, and on 2 November 2021, inviting him to promptly return the identity card issued by the Italian Ministry of Foreign Affairs and the UNLP. All four communications remained unanswered, and the documents in question had not yet been returned at the time the Organization filed its reply in these proceedings. The Organization's request for the return of those documents was

lawful, as they were issued to the complainant for the proper discharge of his duties in his capacity as a serving ITC-ILO official, and he was not entitled to retain them as a former staff member. In these circumstances, the Organization lawfully requested the issuing institutions to cancel both documents.

11. In light of the foregoing, since the complainant's pleas are unfounded, all his claims are rejected and his complaint will be dismissed.

DECISION

For the above reasons,
The complaint is dismissed.

In witness of this judgment, adopted on 30 October 2025, Mr Michael F. Moore, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Ms Rosanna De Nictolis, Judge, sign below, as do I, René M. Vargas M., Registrar.

Delivered on 10 February 2026 by video recording posted on the Tribunal's Internet page.

MICHAEL F. MOORE
JACQUES JAUMOTTE
ROSANNA DE NICTOLIS

RENÉ M. VARGAS M.