

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

R.
v.
FAO

141st Session

Judgment No. 5147

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr M. H. M. R. against the Food and Agriculture Organization of the United Nations (FAO) on 21 July 2022 and corrected on 6 October 2022, and the FAO's reply of 20 January 2023, no rejoinder having been submitted by the complainant;

Considering Articles II, paragraph 5, 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 abolition of his post and the termination of his fixed-term appointment.

The complainant is a former staff member of the World Food Programme (WFP) – an autonomous joint subsidiary programme of the United Nations and the FAO – in the WFP Sri Lanka Country Office. He joined the WFP on a fixed-term appointment, which was extended several times, as a General Service field staff member Programme Associate holding at the material time grade G-6 step 6 and worked in the Monitoring and Evaluation Unit. Prior to that, he was engaged under Service Contracts starting from June 2005.

In 2017, the WFP Sri Lanka Country Office undertook a comprehensive organizational alignment process to review its staffing structure, following which it identified the need to professionalize the monitoring and evaluation function. On 27 October 2017, the WFP Country Office Director sent a letter to all staff in Sri Lanka, entitled “WFP Sri Lanka Country Strategic Plan 2018-2022 Organizational Alignment and Result of Workforce Planning Exercise: 2018 Organ[i]gram”, enclosing a 2018 organigram, and indicating that the structure would be reviewed in mid-2018.

On 20 September 2019, the WFP Deputy Country Office Director met with the complainant to inform him that the Monitoring and Evaluation Unit was being restructured in connection with the mid-term Country Strategic Plan Review and that the post he encumbered would soon be abolished. The complainant was encouraged to apply for several positions. Despite the envisaged post abolition, the complainant’s appointment was eventually extended for six months, from 1 January 2020 until 30 June 2020. On 11 November 2019, he applied for a position for which he did not pass the written examination. On 3 February 2020, another meeting was held, during which the forthcoming abolition of the complainant’s post was reconfirmed.

By a letter dated 19 March 2020, the WFP Country Office Director notified the complainant of the abolition of his post and the termination of his fixed-term appointment effective 31 May 2020. He was informed that he would receive a termination indemnity based on his length of service and the number of uncompleted months of service and calculated according to his net base salary.

On 26 March 2020, the complainant filed a formal complaint with the WFP Office of Inspections and Investigations (OIGI) alleging mismanagement, abuse of power and authority, and discrimination. After a preliminary assessment, OIGI decided to close the case and referred the matter to the WFP Human Resources Division for its consideration. The complainant was informed accordingly on 20 May 2020. Meanwhile, on 27 March 2020, he had received an email informing him of the procedure and of the 90-day time limit for lodging a formal appeal against the abolition decision.

On 26 May 2020, the complainant submitted a grievance against the abolition of his post to the WFP Human Resources Division. On 8 June 2020, he was advised that the procedure to be followed was to make “a formal written appeal” addressed to the WFP Executive Director within 90 days of the date on which he was informed of the contested decision.

On 21 June 2020, the complainant lodged an appeal with the WFP Executive Director against the abolition decision of 19 March 2020. His appeal was rejected as irreceivable *ratione temporis* on 14 September 2020 on the ground that he had lodged his appeal four days beyond the 90-day time limit established by the applicable rules. The complainant requested a review of this decision on 22 September 2020, alleging that the failure to observe the 90-day time limit was “for reasons beyond [his] control”.

On 2 October 2020, he lodged an appeal before the Appeals Committee against the 14 September 2020 decision. The submissions for this appeal were limited to the issue of receivability.

In its opinion of 3 February 2022, the Appeals Committee unanimously recommended rejecting the appeal in its entirety as the complainant had failed to lodge his appeal within the 90-day statutory time limit, which had expired on 17 June 2020. By a letter dated 25 April 2022, the Director-General informed the complainant of his decision to accept this recommendation. This is the impugned decision.

The complainant asks the Tribunal to set aside the impugned decision and to “reinstat[e] the abolished post with a grade increment”, from grade G-6 step 6 to grade G-7 step 6, to compensate the “moral” injury allegedly incurred. Alternatively, he seeks the award of “a termination indemnity as per the rates established in [the] FAO/WFP [S]taff Regulation[s], [taking into account his] length of service for [the] WFP and [the] number of uncompleted months of service”. According to him, as of 31 May 2020, his length of service was 15 years, taking also into account the period during which he was engaged under Service Contracts.

The FAO asks the Tribunal to dismiss the complaint as irreceivable *ratione temporis* and, alternatively, as unfounded.

CONSIDERATIONS

1. The complainant impugns the 25 April 2022 decision whereby the Director-General, endorsing the Appeals Committee's recommendation issued on 3 February 2022, confirmed that the complainant's appeal lodged with the WFP Executive Director on 21 June 2020 against the 19 March 2020 decision – concerning the abolition of his post and the termination of his fixed-term appointment effective 31 May 2020 – was irreceivable *ratione temporis*.

2. The Organization contends that the complaint is irreceivable because the internal appeal against the 19 March 2020 decision was time-barred, as it was lodged on 21 June 2020, and, thus, exceeded the 90-day time limit, which had expired on 17 June 2020.

This objection is unfounded.

Evidence in the record shows that, on 26 May 2020, the complainant submitted a grievance against the 19 March 2020 decision, addressed to the WFP Human Resources Division. On 8 June 2020, the complainant was advised that the procedure to be followed was to address “a formal written appeal” to the WFP Executive Director within 90 days of notification of the contested decision. The recipient of the 26 May 2020 grievance should have entertained it as an internal appeal addressed to the wrong authority and should have forwarded it to the WFP Executive Director, consistent with the Tribunal's case law. Indeed, the Tribunal's settled case law holds that an appeal submitted to the wrong authority within the prescribed time limit is not irreceivable on that account, because it is for that authority, in such circumstances, to forward it to the authority which has competence, within the organisation, to hear it (see Judgment 4542, consideration 3, and the case law cited therein). In such a situation, it was therefore not sufficient for the WFP Human Resources Division merely to inform the complainant that it lacked competence and to suggest that he apply to the competent authority (see Judgments 4542, consideration 3, and 3595, consideration 10).

In conclusion, since the complainant lodged a timely internal appeal, the internal appeal and, consequently, the present complaint are receivable.

3. The Organization further contends that the complaint lacks specific pleas, merely referencing arguments contained in the internal appeal of 21 June 2020.

The Tribunal has stated that it is inappropriate to incorporate by reference, into the pleas before it, arguments, contentions and pleas from other documents, often a document created for the purposes of internal review and appeal, and that the Tribunal may disregard those contentions and pleas (see, for example, Judgments 4715, consideration 12, and 3920, consideration 5). Crucially, the rationale underlying this case law is that complainants before the Tribunal must specify on which grounds they challenge the impugned decisions. Consequently, the Tribunal will disregard the arguments contained in the 21 June 2020 appeal, to which the complainant merely refers, and deal with the pleas specifically formulated in the complainant's brief before it.

4. The complainant alleges that the decision to abolish his post and to terminate his fixed-term appointment violated the WFP Human Resources policies and procedures (namely, Sections II.12.2.2.f and II.12.3.3), and the United Nations humanitarian principles. The decision is allegedly tainted by mismanagement, abuse of power, mistreatment, and discrimination based on ethnicity and religion.

The complainant's arguments are unfounded.

The Tribunal recalls its case law concerning decisions of abolition of posts and subsequent termination decisions. Firm precedent has it that in order to achieve greater efficiency, to make budgetary savings or if funding is no longer available, international organizations may undertake restructuring entailing the redefinition of posts and staff reductions. However, each and every individual decision adopted in such restructuring must respect all the pertinent legal rules, and, in particular, the fundamental rights of the staff concerned (see

Judgments 4599, consideration 11, and 3238, consideration 7). The case law also states that decisions concerning restructuring within an international organization, including the abolition of posts, may be taken at the discretion of the executive head of an organization and are consequently subject to only limited review. The Tribunal will ascertain whether such decisions were taken in accordance with the relevant rules on competence, form or procedure, whether they rested upon a mistake of fact or law, or whether they constituted abuse of authority. The Tribunal will not rule on the appropriateness of the restructuring, as it will not substitute the organization's view with its own (see, for example, Judgments 4844, consideration 3, 4004, consideration 2, and 3582, consideration 6). Nevertheless, any decision to abolish a post must be based on objective grounds, and its purpose should not be to remove a member of staff regarded as unwanted. Disguising such purposes as a restructuring measure would constitute abuse of authority (see Judgments 4353, consideration 6, and 3582, consideration 6). Moreover, a decision to abolish a post must be communicated to the staff member occupying the post in a manner that safeguards that individual's rights. These rights are safeguarded by giving proper notice, justification, and an opportunity to contest the decision. The Tribunal has further stated that the need to give reasons in support of adverse administrative decisions arises precisely because the affected staff member must be given an opportunity to know and evaluate whether or not the decision should be timely contested (see Judgments 4937, consideration 2, 4935, consideration 4, 4353, consideration 7, 3928, consideration 15, and 3041, considerations 8 and 9).

According to the WFP Human Resources Manual Section II.12.2.2:

“Termination Resulting from Reduction in Force

[...]

a. A staff member may be separated in accordance with Staff Rule 302.9.112, irrespective of type of appointment, if the work programme of the Programme requires a re-grouping or curtailment of functions resulting in abolition of post or reduction of staff. [...]

b. ‘Reduction in force’ means a decrease in the number of continuing posts authorized by or on behalf of the Executive Director for the Programme as a whole or for any particular organizational unit. It does not apply to a

reduction of staff which may result from the expiration of a temporary post at the end of the period for which it was established or the expiration of an appointment for a fixed-term.

c. Reduction in force may be accomplished by abolition of specific posts, including the separation of incumbents thereof, or by a reduction of staff, whereby a number of staff members are considered for retention in a reduced number of posts.

[...]

f. Each case of reduction of staff or abolition of post involving termination of an appointment is referred to the Staffing Committee or appropriate Staff Selection Committee for consideration before any formal notice of termination is given to the staff member concerned.

[...]"

According to Staff Regulation 301.9.12:

"The Director-General may terminate the appointment of a staff member with a fixed-term appointment prior to the expiration date for any of the reasons specified in Staff Regulation 301.9.1, or for such other reasons as may be specified in the letter of appointment."

In turn, Staff Regulation 301.9.1 read as follows:

"The Director-General may terminate the appointment of a staff member who holds a continuing appointment (i) if the necessities of the service require abolition of the post or reduction of staff, or (ii) whose services prove unsatisfactory, or (iii) who is, for reasons of health, incapacitated for further service."

Evidence in the record indicates that the Organization undertook a restructuring process which responded to genuine needs, and that the rights of the staff concerned, including the complainant, were safeguarded in keeping with the applicable rules. The abolition of the complainant's position was grounded on the WFP Sri Lanka Country Office's organizational requirements, and the decision to abolish his post was justified and properly notified to him. The termination of his fixed-term appointment was legally adopted as a consequence of the abolition of the post he encumbered. The complainant's contention that Section II.12.2.2.f was violated is unfounded. The termination of his appointment did not occur due to a "[r]eduction in force", as there was not a decrease in the number of continuing posts authorized by or on behalf of the WFP Executive Director.

Accordingly, the termination decision stemming from the abolition of the complainant's post did not require prior referral to one of the committees specified in Section II.12.2.2.f.

The complainant has not identified errors of fact or law in the restructuring process or in the subsequent abolition of his post.

His contention that the decision to abolish his post and to terminate his appointment was allegedly tainted by mismanagement, abuse of power, mistreatment, and discrimination based on ethnicity and religion is not corroborated by any evidence and it is, therefore, mere speculation. As such, it is rejected.

As to the plea on the alleged breach of the United Nations humanitarian principles, it is too vague to be entertained.

5. In conclusion, all the complainant's pleas are unfounded, his claims are rejected, and the complaint will be dismissed.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 4 November 2025, Mr Michael F. Moore, President of the Tribunal, Sir Hugh A. Rawlins, 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

HUGH A. RAWLINS

ROSANNA DE NICTOLIS

RENÉ M. VARGAS M.