R.

v.

WHO

141st Session **Judgment No. 5154**

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr A. R. against the World Health Organization (WHO) on 1 October 2020 and corrected on 17 November 2020, WHO's reply of 8 March 2021 and the complainant's email of 1 April 2021 informing the Registry that he did not wish to file a rejoinder;

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 decision not to reclassify his post.

The complainant joined WHO at its South-East Asian Regional Office (SEARO) in New Delhi, India, in 1991. He was promoted to the position of Clerk (Caretaker), at grade ND-3 (also referred to as grade G.3), in 1996.

In 2015, the complainant requested that his position be reclassified from grade ND-3 to grade ND-4 (also referred to as grades G.3 and G.4 respectively) as from 1 January 2009. His request having been rejected, he filed an appeal with the Global Board of Appeal (GBA). In its report of March 2018, the GBA found the reclassification process was flawed. It therefore recommended that the complainant's reclassification

request be considered anew and that he be awarded moral damages for denial of due process. It also recommended that the appeal be otherwise rejected. In April 2018, the Director-General informed the complainant that he had accepted the GBA's recommendations. Hence, in mid-2018, a classification specialist conducted a desk audit of his functions. In November 2018, the Classification Specialist, who was also the Team Leader of Global Talent Management in the Human Resources Department at Headquarters, informed the Regional Human Resources Manager that, in his view, "the differences between the old and the proposed new job descriptions [were] noteworthy, but not grade-changing in nature".

On 4 April 2019, the Director, Administration and Finance, informed the complainant that a reclassification review exercise of his position had been completed in November 2018. He noted that the review exercise included a desk audit and in-depth discussions with the complainant and his first and second-level supervisors. He added that the review exercise was examined, in accordance with established practice, by the SEARO Reclassification Committee, which recommended that his position be maintained at grade G.3. The SEARO Reclassification Committee stressed that the desk audit exercise showed that the difference between the old and proposed new job descriptions were noteworthy, but not "grade-changing" in nature. The Director, Administration and Finance, endorsed that recommendation. The complainant requested the Regional Classification Review Standing Committee (CRSC) to review this decision alleging that the desk audit was procedurally flawed, that no account was taken of the difficulty of his work and that the Administration violated the Rotation Policy for General Service Staff (the Rotation Policy) insofar as he had been in the same position for 23 years with the consequence that he had lost opportunities for career advancement despite performing at the entire satisfaction of his supervisor. He therefore requested that his post be reclassified at grade G.4 effective 1 January 2009.

By a letter of 27 June 2019, the Director, Administration and Finance, notified the complainant that the Regional Director had received the Regional CRSC's report, and had decided to endorse its

findings that the request for review was receivable, that all relevant facts were taken into account by the Classification Specialist, who had discretion regarding the conduct of the desk audit since WHO's eManual Section III.20, Annex 2.A, did not indicate a desk audit should be conducted. The report of the Regional CRSC was attached to the letter.

On 14 August 2019, the complainant requested the Director-General to inter alia reject the Regional Director's decision and reclassify his post to the G.4 level. On 7 October 2019, the Human Resources Management Department replied that the decision of 27 June 2019 was "a new and final administrative decision", which should be appealed directly to the GBA in light of the recent changes in the rules. The complainant did so on 1 November 2019.

In its report of 4 June 2020, the GBA concluded that, although the complainant filed his statement of appeal outside the deadline of 90 calendar days, his appeal was receivable because the available appeal procedures were not set out in the contested decision of 27 June 2019. He filed his statement of appeal on 1 November 2019 shortly after having been advised of the applicable procedure on 7 October 2019. However, the GBA found that the appeal was irreceivable insofar as the complainant contested the decision not to reassign him under the Rotation Policy on the ground that this issue had been considered by the GBA in its report of 2 March 2018, a final decision issued on 20 April 2018 and no new information had been provided. On the merits, the GBA found that the classification review process complied with the applicable procedures, that all relevant factors were considered and that there was no evidence of a procedural or material flaw or that an essential fact was overlooked. The GBA also rejected the allegations of conflict of interest and considered that the time taken to process the reclassification request was reasonable.

On 9 July 2020, the Director-General informed the complainant of his decision to accept the GBA's recommendation to dismiss his appeal. This is the impugned decision.

The complainant asks the Tribunal to order that his post be reclassified from grade ND-3 to grade ND-4, effective 1 January 2009. In the alternative, he asks that the "Salary Specialist may be required to rework the reclassification". He also seeks compensation for the material, moral and financial loss resulting from the failure to reassign him to a suitable position, in due time, under the Rotation Policy. Hence, he claims 10,000 United States dollars for "material loss and damage to professional standing", 5,000 dollars for "deprivation of career advancement", 2,000 dollars for the delay in processing his "reclassification case", and costs. He further claims "exemplary moral compensation as may be considered just and fair".

CONSIDERATIONS

1. The complainant joined SEARO in New Delhi, in 1991 and was promoted to grade ND-3 (G.3) in 1996. In 2015, he sought reclassification of his post to grade ND-4 (G.4) with retroactivity claimed as from 1 January 2009. His request having been rejected, the complainant filed an appeal with the GBA (Case No. 16). In March 2018, the GBA identified procedural flaws and recommended that his request be considered anew and that he be awarded moral damages for denial of due process, while otherwise rejecting the appeal.

2. Following a new review in 2018-2019, the Regional CRSC recommended maintaining the post at grade G.3 on the basis that the differences identified were not grade-changing, and the Regional Director endorsed that recommendation. The complainant filed another internal appeal (GBA Case No. 114). The GBA, in its report, recommended dismissing the appeal and found that the complainant's grievance concerning reassignment under the Rotation Policy was irreceivable because a final decision had been made in 2018. On 9 July 2020, the Director-General dismissed the complainant's appeal, endorsing the GBA's recommendation. This is the impugned decision.

3. The complainant challenges the impugned decision mainly on the following grounds:

(i) the reclassification process was flawed;

(ii) violation of the Rotation Policy, which in his view give him a separate cause of action because this violation had a bearing on the assessment of his duties;

(iii) the difficulty and responsibilities of his work for that grade level were not taken into account; and

(iv) there were undue delays in the reclassification process.

4. WHO submits that the complaint is receivable only insofar as the complainant challenges the 9 July 2020 decision, which endorsed the GBA's recommendation in Case No. 114, because any claim made in relation to reassignment under the Rotation Policy is time-barred since a final decision on that issue was taken on 20 April 2018 following the GBA's recommendation on his first appeal (Case No. 16) and was not impugned before the Tribunal within the statutory time limit. WHO also submits that claims made in relation to the first appeal are moot since the flawed reclassification decision was remitted to the internal appeal body for new consideration and a new decision was made. This new decision is now impugned before the Tribunal.

5. The complainant argues that the Organization's failure to rotate or reassign him forms part of the broader context of him having remained a "Caretaker-Receptionist" at the ND-3 level for 23 years and should be considered together with the classification review. He also asserts that the Administration failed to include his name on the list established six months prior to the end of the biennium for the Staff Rotation Review Committee, thus depriving him of opportunities relevant to the classification exercise.

6. The Organization, correctly, contended that the dispute concerning the Rotation Policy was examined in the complainant's first appeal and the Director-General made a final decision on 20 April 2018. In paragraph 45 of the GBA's report in Case No. 16, the GBA found that the complainant had not initiated a request for reassignment as required under paragraphs 3.3.6 and 3.3.7 of SEARO Information

Circular IC-2005-19 on the Rotation Policy for General Service Staff and that the Administration did not have a duty to initiate a staff member's reassignment under the Rotation Policy. The GBA accordingly recommended that the complainant's claim in this respect be dismissed. The Director-General endorsed the GBA's recommendations, and referred the matter to SEARO asking that the complainant's reclassification request be considered anew, while dismissing his appeal in respect of all other claims.

7. Under Article VII, paragraph 2, of the Tribunal's Statute, a complaint must be filed within ninety days after the complainant was notified of the decision impugned. The Tribunal has no competence to extend the deadline set forth by its Statute (see, for example, Judgments 4741, consideration 12, 3973, consideration 3 and 3559, consideration 3). The fact that the reclassification decision was remitted for reconsideration cannot revive the time limits that expired in respect of the reassignment issue under the Rotation Policy, with respect to which the complainant acknowledges that the cause of action is distinct. Accordingly, the complainant's claim for compensation for the alleged failure to reassign him is irreceivable. However, the complainant may refer to the rotation history as part of the chronology leading to the present case concerning the reclassification of his post (see, for example, Judgments 4100, consideration 3, 3380, consideration 8, and 1982, consideration 7).

8. Turning to the merits of this case, it is appropriate to introduce the applicable legal framework governing post classification and classification reviews. Staff Rule 230 permits a staff member to request a re-examination of the classification of a post occupied or supervised, in accordance with procedures established by the Director-General. Section III.2.1 (Position Classification) of WHO's eManual and Section III.20, Annexes 2.A and 2.B, of the eManual set out the initiation, documentation and review steps, including desk audits and review by the Regional CRSC.

Annex 2.A, entitled "Procedures and delegated classification authority for position classification and classification review (online workflow system)", in its footnote 1, stipulates:

> "A desk audit requires a contact with the incumbent, may involve a meeting with the supervisor, and results in a brief report summarizing the main changes between the existing and revised post descriptions, to be signed by the 3 parties involved (incumbent, supervisor, and classification specialist), and will be submitted to the Director-General Coordinator HRD/RCO with an evaluation and a grade recommendation for decision."

Annex 2.B, entitled "Procedures for the Classification Review Standing Committees", provides that the CRSC's role is to "review the material to ascertain whether all the facts were taken into account by the classifiers and correct procedures were followed". SEARO Information Circular IC-2018-09 of 14 August 2018 establishes the CRSC procedures and membership, and provides that, for the review of cases by the CRSC, "a panel will be constituted comprising a chair or alternate chair and two members, i.e. one Management Representative and one Staff Association Representative each, of whom at least one must be at a grade equal to or higher than that proposed for classification".

9. The Tribunal's consistent case law makes clear that its role in reviewing a post classification decision is limited. In Judgment 4307, consideration 8, the Tribunal stated the following:

> "Consistent precedent has it that the process of classifying posts in international organizations constitutes an act of technical evaluation, and, accordingly, it is not for the Tribunal to weigh, compare and/or determine the relative merits of ratings which are thereby accorded. The case law further states that the classification of a post involves an evaluation of the nature and extent of the duties and responsibilities of the post based upon the post description and is not concerned with the merits of the performance of the incumbent (see, for example, Judgment 4000, consideration 9). The case law has also consistently stated, for example, in Judgment 3589, consideration 4, that the grounds for reviewing the classification of a post are limited and ordinarily a classification decision would only be set aside if it was taken without authority, had been made in breach of the rules of form or procedure, was based on an error of fact or law, was made having overlooked an essential fact, was tainted with abuse of authority, or if a truly mistaken conclusion had been drawn from the facts. This is because the classification of posts involves the exercise of value judgements as to the

> nature and extent of the duties and responsibilities of the posts and it is not the Tribunal's role to undertake this process of evaluation. The grading of posts is a matter within the discretion of the executive head of the organization (or the person acting on her or his behalf)."

10. The complainant alleges that the desk audit was not carried out in accordance with the procedure prescribed in the eManual Section III.20, Annexes 2.A and 2.B. He argues that the Regional Personnel Officer (RPO) who acted as Secretary to the Regional CRSC was also the Classification Specialist and later represented the Administration in GBA Case No. 16, thus giving rise to conflict of interest and bias against the complainant. He also relies on a footnote to Annex 2.A to argue that (i) the Classification Specialist held a meeting with his supervisors without his presence; (ii) his second-level supervisor should not have been consulted; and (iii) the report was not signed by the three parties together. He further alleges that the desk audit report was based on an error of fact by overlooking some important considerations regarding his work, and not taking into account his current "duties and responsibilities, as ascertained by on-the-spot enquiry".

11. The record shows that the desk audit and grading recommendation were conducted and issued by the Classification Specialist, not the RPO. The latter served as Secretary of the CRSC without voting rights or decision authority, and her subsequent representation of WHO's position in the internal appeal was in her functional human resources capacity. The Tribunal recalls its case law that allegations of conflict of interest or bias must be substantiated by objective facts and not mere suspicion (see, for example, Judgments 4915, consideration 5, 4238, consideration 15, and 4234, consideration 3). Mere allegations are insufficient. The complainant adduces no evidence of partiality on the part of any member involved in the classification chain. This plea is therefore unfounded.

12. Regarding the allegations of procedural flaws in the desk audit, the complainant alleges that the Classification Specialist met with the first and second-level supervisors without his presence, thereby

vitiating the desk audit exercise at the threshold stage. The Tribunal notes that footnote 1 of Annex 2.A of Section III.20 of the eManual, provides that a desk audit "may involve a meeting with the supervisor", which implies that the Classification Specialist may meet with the supervisor but does not require the incumbent's participation in such a meeting.

13. The complainant further argues that the desk audit report was not signed by the three parties together, agreeing to its contents, which violated the three-signature requirement contained in footnote 1 of Annex 2.A of Section III.20 of the eManual. The Tribunal observes that the relevant provision of footnote 1 states that a desk-audit "results in a brief report summarizing the main changes between the existing and revised post descriptions, to be signed by the 3 parties involved (incumbent, supervisor, and classification specialist)". The footnote did not create an obligation of the type relied on by the complainant. All that was required is that the three signatures appear on the document. Moreover, the complainant has not adduced any evidence that the three signatures were not on the document.

14. The complainant also alleges that the second-level supervisor's comments were considered by the Classification Specialist, which vitiated the desk audit exercise. However, the provisions of the eManual Section III.20, Annex 2.B, do not forbid the intervention of the second-level supervisor *per se*. The Tribunal further notes that the complainant was made aware of the second-level supervisor's comments, and the complainant does not establish that the participation of that supervisor has affected the outcome of the desk audit. The consultation of a second-level supervisor by the Classification Specialist in the context of the desk audit, which is a non-adversarial procedure, does not, without more, establish a breach of procedure.

15. The complainant's allegation of errors of fact on the part of the Director-General is equally without merit. On the Tribunal's limited role in reviewing the post classification decision, the question is not whether the job is demanding, but whether the decision-maker ignored

essential facts or drew a truly mistaken conclusion from the record. The record shows that the Classification Specialist met the complainant and the supervisors, reviewed examples of daily work, received and considered the complainant's written comments referring to the increased duties and responsibilities and difficulty of his job, and produced a report. The Regional CRSC scrutinized the file and confirmed both procedure and substance, finding no substantive error or essential fact being overlooked; the GBA reached the same conclusion; and the Director-General endorsed it. The complainant has not demonstrated that specific essential facts were ignored or that the conclusion reached was clearly mistaken. The Tribunal is satisfied that the decision was not vitiated by any error of fact or law, oversight of an essential fact, or abuse of authority.

16. The complainant alleges delay at three points: (i) an interval of more than three months without response from the RPO; (ii) a year taken by the Regional Board of Appeal to report after completion of appeal documentation; and (iii) 3.5 months for the Regional Director to issue a decision. WHO acknowledges the overall time span from 2015 to 2020 but attributes it to the complexity of two internal appeals and an intervening remittal; it notes that compensation related to delay was already made in respect of the first appeal.

17. The Tribunal's settled case law establishes that mere delays do not constitute sufficient grounds for awarding moral damages. The complainant bears the burden of proof and must substantiate: (a) the injury suffered; (b) the alleged unlawful act; and (c) the causal link between the unlawful act and the injury (see, for example, Judgments 4859, consideration 8, and 3778, consideration 4). In this case, other than pointing to delays, the complainant neither articulates concrete adverse effects attributable to the timing of the second review cycle nor furnishes evidence of non-pecuniary injury specific to said timing. The delays cited, though regrettable, do not amount to undue delay in view of the procedural stages involved, which included the constitution of committees, the exchange of submissions, and an intervening re-examination ordered after the first appeal. The Tribunal

notes that no specific statutory or administrative deadline was breached. Accordingly, this plea fails.

18. It follows from the foregoing that the complaint must be dismissed in its entirety.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 24 October 2025, Mr Michael F. Moore, President of the Tribunal, Sir Hugh A. Rawlins, Judge, and Ms Hongyu Shen, 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

HONGYU SHEN

RENÉ M. VARGAS M.