

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

B. (Nos. 1 and 2)

v.

SPC

141st Session

Judgment No. 5203

THE ADMINISTRATIVE TRIBUNAL,

Considering the first and second complaints filed by Mr J. S. B. against the Pacific Community (SPC) on 5 September 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, on the basis of Article VII, paragraph 3, of the Statute of the Tribunal, challenges what he considers to be an implied decision rejecting his request for further review of 6 April 2024.

2. On 7 February 2024 the complainant submitted to the SPC a request for review, in accordance with Part A of Chapter XIII of the Manual of Staff Policies, of the decisions of 11 January 2024, communicated to him on 26 January 2024, to (a) reject the grievance he had lodged pursuant to Chapter XI of the Manual, in which he had alleged there was a conflict of interests in a recruitment procedure, and (b) impose a disciplinary sanction on him. That request for review was rejected on 6 April 2024. That same day, the complainant submitted a

very concise request for further review by the Review Panel, making reference to Part B of Chapter XIII of the Manual.

By an email of 10 April 2024, the SPC invited the complainant to add more detail to his request for further review of 6 April 2024. On 8 May 2024 the SPC told the complainant that it was prepared to forego the internal appeal procedure and offered him the option of taking the matter directly to the Tribunal.

On 5 September 2024 the complainant filed two separate complaints before the Tribunal, on the basis of Article VII, paragraph 3, of the Tribunal's Statute, to challenge an implied decision rejecting his request for further review of 6 April 2024. He explains in his written submissions that his first complaint relates to the disciplinary sanction and that the second relates to the recruitment procedure contested in his grievance, asking the Tribunal to order that the two be joined.

3. Given that both complaints challenge what the complainant regards as an implied decision to reject his request for further review of 6 April 2024, it is appropriate to join them so that the Tribunal may rule on them by a single judgment.

4. Article VII, paragraph 3, of the Statute of the Tribunal 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. The period of ninety days [to file a complaint before the Tribunal] provided for by [Article VII, paragraph 2] shall run from the expiration of the sixty days allowed for the taking of the decision by the Administration.”

5. The Tribunal considers that the complainant's reliance on Article VII, paragraph 3, of its Statute is misplaced. It is clear from the evidence that the complainant received two responses from the Administration – on 10 April and 8 May 2024 – in connection with his request for further review of 6 April 2024, that is within sixty days from

the notification of that request. Those responses were sufficient to forestall an implied rejection that could be impugned under Article VII, paragraph 3, of the Statute of the Tribunal (see Judgment 4911, consideration 4, and the case law cited therein).

6. Furthermore, the Tribunal notes that, even supposing that the complainant were correct in arguing that an implied decision had arisen pursuant to Article VII, paragraph 3, the complaints were out of time. They were filed on 5 September 2024, which was not within ninety days from the expiration of the sixty-day period running from the date of submission of the complainant's request for further review, which was 6 April 2024, that sixty-day period having ended on 5 June 2024 and the subsequent ninety-day period having expired on 3 September 2024. In that regard, it is apparent from the complainant's submissions that he miscalculated the deadlines in question by treating the sixty-day period as a two-month time limit and the ninety-day period as a three-month time limit.

7. Lastly, the Tribunal notes that, even if it considered it necessary to reclassify the complaints as impugning the express decision, dated 6 April 2024, rejecting the complainant's request for review, they would, in any event, be irreceivable because they were filed after the expiration of the ninety-day period following notification of that decision, provided for in Article VII, paragraph 2, of the Statute of the Tribunal, bearing in mind that the offer made by the SPC to the complainant on 8 May 2024 allowing him to refer the matter directly to the Tribunal did not cause a new time limit to start running on that date.

8. It follows from the foregoing that the complaints are 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 complaints are dismissed.

In witness of this judgment, adopted on 13 November 2025, Mr Patrick Frydman, Vice-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 10 February 2026 by video recording posted on the Tribunal's Internet page.

(Signed)

PATRICK FRYDMAN JACQUES JAUMOTTE CLEMENT GASCON

RENÉ M. VARGAS M.