
ADMINISTRATIVE TRIBUNAL

Judgement No. 442

Case No. 458: MOTAMEDI

Against: The Secretary-General
of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,
Composed of Mr. Jerome Ackerman, vice-president, presiding;
Mr. Samar Sen; Mr. Ahmed Osman;

Whereas, on 16 February 1988, Laia Motamedi, a former staff member of the United Nations, filed an application in which she requested the Tribunal to order:

"-The reinstatement of the Applicant in an appropriate post at the appropriate level in the Organization, with full benefit of her rights and recognition of past service.

-That in the event the Secretary-General decides on the basis of fair and objective reasons, a reinstatement is not in the interest of the United Nations, the Applicant receive financial compensation to cover the following:

The entitlements to which the Applicant's proper and timely recruitment would have given her a right under Staff Rules and Regulations i.e. installation grant, removal of household goods, home leave, repatriation grant, separation indemnity etc;

Damages in an amount equivalent to two years net base salary at the grade and step the Applicant held at the time of her last contract (P2 IV), for jeopardy of career and the moral and psychological hardship inflicted.

That, to preclude the perpetuation of prejudice to the Applicant's career which could arise from the Respondent's improper management, the record of her more than 4 years of continuous service in the UN be clearly established on the basis of the reports submitted to the General Assembly on the 'composition of the Secretariat

at its 39th, 40th, 41st and 42nd Sessions and her excellent performance of all her duties as witnessed in the PER [performance evaluation report] established in July 1987."

Whereas the Respondent filed his answer on 28 December 1988;

Whereas the facts in the case are as follows:

The Applicant entered the service of the United Nations on 23 March 1983 as an Associate Information Officer in the Office of the Commissioner for Namibia (OCN) under a fixed-term appointment for six months at the P-2 level, step I. On 19 August 1983, in a memorandum addressed to the Director of the Division of Recruitment of the Office of Personnel Services, a Director in OCN recommended that the Applicant's appointment be extended for five months and that she be considered as a candidate for regular appointment to the post she held. On 30 September 1983 the Director of the Division of Recruitment replied that the post in question had been reserved by the Central Examination Board for the 1983 competitive examination for promotion from the General Service (G) to the Professional (P) category and that, since it was expected that the selected candidate would report in early January 1984, the Applicant's appointment could not be extended beyond 30 December 1983. On 10 October 1983 the Commissioner for Namibia wrote to the Assistant Secretary-General for Personnel Services arguing that because of the special requirements of the post it should not be filled by any regular information officer and asking for a review of the decision of the Central Examination Board to automatically reserve the post for the G to P examination. On 27 October 1983 the Director of the Division of Personnel Administration of the Office of Personnel Services advised the Director in OCN that upon further review the Central Examination Board had confirmed, and the Office of Personnel Services concurred, that the post could not be withdrawn; he suggested that should OCN consider it essential to retain the services of the Applicant, it might try to identify another suitable

post for her in OCN. Early in 1984 the successful candidate in the G to P examination was placed against the P-2 post previously held by the Applicant and the post, with the new incumbent, was loaned to the Department of Public Information. In the meantime the Applicant was placed on a vacant P-3 post on loan from the Gaborone Office and her appointment was extended on a month-to-month basis until the end of October 1984. On 9 April 1984, in a memorandum to the Director of the Division of Personnel Administration, the Director in OCN said that he trusted that this arrangement could continue until such time as the P-2 post on loan to the Department of Public Information was returned or, alternatively, another P-2 post was made available to OCN, at which time OCN intended to proceed with the regular recruitment of the Applicant against that post. On 27 September 1984 the Assistant Secretary-General for Personnel Services sent to all Heads of Departments and Offices, including the Commissioner for Namibia, a memorandum to provide guidelines on the implementation of administrative instruction ST/AI/318 dated 10 September 1984 on the subject of temporary suspension of recruitment and to set down procedures to be followed by departments and offices for the duration of the suspension. On 17 October 1984 a Personnel Officer drew the attention of the Chief of Staff Service to the contractual status of the Applicant, noting that "the normal procedure for recruitment of external candidates was not carried out and thus her case was never submitted to the Appointment and Promotion Committee". On 6 November 1984 the Director in OCN recommended to the Director of the Division of Recruitment that the Applicant be appointed to the vacant P-3 post. On 12 November 1984 the Director of the Division of Recruitment replied that regular recruitment action for that post would not be possible unless an exemption from the temporary suspension of recruitment was requested according to the guidelines sent to the Commissioner for Namibia on 27 September 1984; should this exemption be granted and favourably considered, the Applicant, a national of a country which had reached the upper range of representation, could still only be considered for the post

alongside other qualified internal and external candidates. In a memorandum to the Commissioner for Namibia dated 12 November 1984, the Assistant Secretary-General for Personnel Services provided the following clarifications on the question of extension of fixed-term and short-term appointments during the temporary suspension of recruitment:

"As regards staff in the professional categories and above, staff members who have been on board for a period of a year or more and have been appointed through the APB/APC [Appointment and Promotion Board/Appointment and Promotion Committee] machinery are not affected by the suspension of recruitment. Extensions of appointments will also be permitted irrespective of length of service for staff on fixed-term or short-term appointments replacing regular staff on reimbursable loan, SLWOP [special leave without pay] or mission assignments when extension of such arrangements have been approved during the suspension of recruitment. However in all other cases staff members who have been on board for less than a year and whose appointments have not gone through the APB/APC fall under the suspension of recruitment. Exceptions may nevertheless be granted for extensions up to 11 months if the Head of the Department concerned certifies that the function is essential and requests an exception in accordance with paras. 8 and 13 of my memorandum [of 27 September 1984]. There are also a few cases where staff members have been on board for more than a year although their cases have never been presented to the APB/APC bodies. All such cases will be reviewed on their own merit. However if the situation is due to the fact that such staff members are not qualified for long-term appointment and their appointments have been extended on an ad hoc basis, no further extension should be requested."

On 11 January 1985 the Commissioner for Namibia requested the Assistant Secretary-General for Personnel Services to make an exception to his directives on temporary suspension of recruitment and to approve, on an exceptional basis, regular recruitment action for the P-3 post, thereby facilitating the consideration of his recommendation in respect of the Applicant. On 14 February 1985 the Assistant Secretary-General for Personnel Services replied as follows:

"...

2. Firstly, it should be noted that the fact of Ms. Motamedi's employment with the Office of the Commissioner for Namibia since 23 March 1983 does not give her any privileges since she had been recruited on a temporary basis under fixed-term appointments which do not carry any expectation of further extension.
3. Secondly, it was not the Office of Personnel Services which earmarked the post for the G-to-P examination but the Central Examination Board, an independent body established by the Secretary-General, whose decisions are binding. Furthermore, regular recruitment at P-2 level is subject to competitive examinations irrespective of the level of the post to be filled, as specified in ST/SGB/210.
4. The General Assembly made it clear that recruitment at the P-2 level should be through competitive examinations as one of the major means of appointing nationals of unrepresented and under-represented Member States. The UN Secretariat has strict obligations to the countries in which competitive examinations have taken place. We have qualified candidates who passed national competitive examinations in under-represented countries, and their files are being sent to you by the Division of Recruitment for your selection. I, unfortunately, do not see any possibility of considering recruitment of Ms. Motamedi for post UNA-03157-T-P-E-001 as she does not have the experience for appointment at P-3 level.
5. Meanwhile, a final extension of appointment for Ms. Motamedi for one month may be granted to give her time to settle any outstanding business."

After a further exchange of memoranda between the Commissioner for Namibia and the Assistant Secretary-General for Personnel Services, the Under-Secretary-General for Administration and Management advised the Assistant Secretary-General for Personnel Services, on 17 May 1985, that, in view of the time that the Applicant had already spent with the Organization, he had concluded that equity would be served if, on an exceptional basis, "her case were submitted to the Appointment and Promotion bodies for a regularization of her case".

On 1 August 1985 a vacancy notice was accordingly issued for the P-3 post of Information Officer. In November 1985 the

Applicant's appointment, which had been extended from 1 November 1984 to 15 April 1985 and again to 30 May 1985, was further extended retroactively until 30 November 1985. Thereafter the appointment was extended on a month-to-month basis pending finalization of the regular recruitment procedures. On 5 December 1985 the Director in OCN recommended the Applicant's regular recruitment to the post. On 3 February 1986 a Recruitment Officer in the Office of Personnel Services transmitted OCN's recommendation to the Chairman of the Appointment and Promotion Committee, advising him that the Office of Personnel Services was not in a position to support it but that the case was being submitted to the Appointment and Promotion bodies for consideration upon instruction from the Under-Secretary-General for Administration and Management. On 7 March 1986 the Appointment and Promotion Committee unanimously decided not to recommend the Applicant for the post on the grounds that all recruitment at the P-2 level should be subject to competitive examination and that she was less qualified for recruitment at the P-3 level than three other candidates, all of whom were women. On 21 May 1986 OCN reiterated its desire that the Applicant be confirmed in the post and requested that this desire be conveyed to the Appointment and Promotion Board when the latter considered the case. On 29 May 1986 the Appointment and Promotion Board concurred with the Committee's decision not to recommend the appointment of the Applicant. On 20 August 1986, the Under-Secretary-General for Administration and Management wrote to the Chairman of the Appointment and Promotion Board indicating that he had discussed the matter with the Secretary-General and that he wished the Board to reconsider the Applicant's case, taking into account her continuous employment with the Organization for over three years, her performance, which had been reported consistently as very good, and her qualifications. The Appointment and Promotion Committee reconsidered the Applicant's case on 12 November 1986 but maintained its previous recommendation. On 5 February 1987 the Appointment and Promotion Board in turn recommended, and the Officer-in-Charge of Personnel Services subsequently decided on

behalf of the Secretary-General, not to approve the appointment of the Applicant as Associate Information Officer.

On 9 April 1987 the Applicant lodged an appeal with the Joint Appeals Board. On 4 July 1987, after a final extension of appointment, she left the service of the Organization. The Joint Appeals Board adopted its report on 24 September 1987. The Board's conclusions and recommendation read as follows:

"Conclusions and recommendation

58. The Panel first concludes that the appellant did not have a legal expectancy of renewal of her fixed-term appointment beyond its final expiration date.
59. The Panel further concludes that the appellant has not been denied due process.
60. The Panel also concludes that it has not been sufficiently demonstrated to it that the decision not to renew the appellant's fixed-term appointment was tainted by prejudice or improper motivation.
61. Accordingly, the Panel makes no recommendation in support of the appeal."

On 30 October 1987 the Applicant was advised that the Secretary-General had decided to maintain the contested decision and to take no further action on her case. On 16 February 1988 she filed with the Tribunal the application referred to earlier.

Whereas the Applicant's principal contentions are:

1. The Applicant had a justified expectancy of career service in the United Nations.
2. The review procedure undertaken by the Appointment and Promotion bodies, as well as the Joint Appeals Board proceedings, were invalidated.
3. There was abuse of authority on the part of the Respondent.
4. The Respondent caused financial loss to the Applicant,

inflicted moral and psychological hardship on her and jeopardized her career prospects.

Whereas the Respondent's principal contentions are:

1. A fixed-term contract does not carry any expectancy of renewal or conversion to any other type of contract.
2. The procedure leading to the decision not to extend the Applicant's appointment was not vitiated by lack of due process, prejudice or any other extraneous factor.

The Tribunal, having deliberated from 11 to 19 May 1989, now pronounces the following judgement:

I. The application in this case challenges the acceptance by the Respondent dated 30 October 1987 of the unanimous recommendation of the Joint Appeals Board dated 24 September 1987 that the Applicant's appeal be rejected. The Applicant claims that the Joint Appeals Board's recommendation was flawed in that it failed to give consideration to all the facts and uncritically accepted statements of the Respondent's representative. In particular, the Applicant urges that the Joint Appeals Board did not take into account the provisions of applicable administrative instructions allowing direct recruitment at P-1/P-2 levels within a limit of five percent of vacant posts in any calendar year outside of the competitive examination requirement; that the Joint Appeals Board did not take into account staff regulation 4.4 insofar as it requires the fullest regard in filling vacancies to the requisite qualifications and experience of persons already in the service of the United Nations; that the Panel did not grant the Applicant's request that the chairperson of the Appointment and Promotion Committee be heard and that the proceedings of the Appointment and Promotion Board be examined; and that the Joint Appeals Board failed to investigate allegations of prejudice brought to its attention. The Tribunal

will consider each of these matters, but before doing so will turn to the Applicant's pleas and the manner in which they were dealt with by the Joint Appeals Board.

II. First, the Applicant claims to have had a justified expectancy of career service in the Office of the Commissioner for Namibia and that she was denied this as a result of improper and unfair management practices on the part of the Respondent. The Applicant, as indicated above, was employed under a lengthy series of fixed-term contracts from March 1983 to July 1987. Although it was apparently contemplated originally that the Applicant would receive a permanent appointment at the P-2 level in the post in which she was temporarily employed under a six-month contract in March 1983, this did not materialize because during 1983 the post was reserved by the Central Examination Board for promotion of a General Service staff member under the competitive examination procedure. See ST/SGB/173 (1979); ST/SGB/210 (1985); ST/AI/302 (1982) and ST/AI/313 (1983). The authority of the Central Examination Board as delegated by the Secretary-General as described in these documents is consistent with staff regulations 4.3 and 4.4, and is in accord with a request by the General Assembly in its resolution 33/143 of 20 December 1978.

III. It appears that at first the Central Examination Board did not consult with the Commissioner for Namibia about selection for the competitive examination procedure of the post temporarily being encumbered by the Applicant. Evidently the Board proceeded on the belief that since the post was only being filled temporarily, it could be regarded as an upcoming vacancy which could be filled through the competitive examination procedure. Subsequently in October 1983 the Commissioner for Namibia communicated to the Central Examination Board his opposition to the reservation of the post, but the Board, acting within its authority, reaffirmed its reservation of the post.

IV. Following this, the Commissioner for Namibia sought to have the Applicant's employment made permanent on an exceptional basis. However, by that time a temporary suspension of recruitment had come into effect and the Commissioner for Namibia was informed by the Assistant Secretary-General for Personnel Services that the Applicant was ineligible under the then policies for such recruitment. The Tribunal is left with the impression that the Applicant became a victim not only of the competitive examination requirement and the suspension of recruitment, but also of bureaucratic delay, confusion and mishandling in connection with her temporary employment and the effort to employ her on a permanent basis. The inequities to the Applicant were acknowledged by the Under-Secretary-General for Administration and Management, through whose efforts the Applicant received consideration by the Appointment and Promotion Committee and the Appointment and Promotion Board on an exceptional basis. However the results were not favourable to the Applicant, and the Tribunal is constrained to express sympathy for the Applicant's situation. But the Tribunal's sympathy and understanding for the Applicant's predicament cannot, of course, circumvent the overriding legal considerations with respect to the following matters.

V. The Applicant believes that given the facts surrounding her appointment, the numerous recommendations of the Office of the Commissioner for Namibia for her permanent appointment and her more than satisfactory performance, she had a justified expectancy of permanent employment regardless of staff rule 104.12(b). The Joint Appeals Board found no merit in this contention, and neither does the Tribunal.

VI. In the absence of proof of a binding commitment to the contrary - and none is present here - fixed-term appointments do not carry a right of renewal (staff rule 104.12(b)). This was the case

of each of the Applicant's approximately 35 fixed-term appointments.

Indeed, even if the Applicant could be said to have had some expectancy at the time of her first fixed-term appointment, that expectancy diminished steadily with each succeeding short extension.

In addition, the Applicant did not have the necessary experience for appointment at the P-3 level, and there were other more experienced candidates who did have the necessary qualifications. And, while the Applicant's performance was highly regarded, that does not create an obligation to renew an appointment. See Judgement No. 205, El-Naggar (1975). See also Judgement No. 427, Raj, paras. X and XI (1988).

VII. The Applicant also claims that the review procedure undertaken by the Appointment and Promotion Committee as well as the Appointment and Promotion Board and their recommendations against her employment on either a permanent or a two-year fixed-term arrangement were flawed because outdated and incomplete information regarding the Applicant was before those bodies. The Applicant argues that accordingly the Respondent's acceptance of what he allegedly knew to be a prejudiced and ill-founded recommendation constituted an unlawful failure on his part to carry out his duties, and a gross abuse of discretion and authority. These contentions of failure to respect basic standards of fair management and a related contention of alleged failure to apply established rules were analyzed by the Joint Appeals Board in terms of whether the non-renewal of the Applicant's fixed-term appointment or the decision against permanent employment was motivated by prejudice or other extraneous factors and whether the Applicant had been accorded due process. The Joint Appeals Board did not consider it properly within its authority to substitute its views regarding the requisite qualifications and experience of the Applicant for those of the Appointment and Promotion bodies, nor does it appear that the Joint Appeals Board considered its function to be that of substituting its judgements on other managerial matters for those of the

Organization. These are not the functions of either the Joint Appeals Board or this Tribunal.

VIII. The Joint Appeals Board's views with regard to due process and allegations of prejudice were as follows:

- "54. The Panel next had to determine whether the appellant had been denied due process. It noted that the appellant had been extended on a month-to-month basis for almost two years after her initial six-month appointment in March 1983, before her case was presented to the APC for the first time. While this was contrary to normal UN practice, as specified in staff rule 104.14 (f)(i), which provides that short-term contracts shall not be extended beyond 11 months without the approval of the APB/APC, the Panel felt that, if anything, the appellant had benefited from this exceptional arrangement, which enabled her to stay on much longer than the stipulated 11 months. Under the circumstances, the Panel rejected the appellant's claim.
55. The Panel also had to determine whether the decision not to extend the appellant's appointment was motivated by prejudice or other extraneous factors. In this connection, the Panel recalled that the Tribunal has held in its Judgement No. 93, Cooperman that 'the burden of proving prejudice or improper motivation rests with the Applicant'.
56. It took note of the appellant's contention that the APB/APC bodies in considering her case had not had the fullest regard to her requisite qualifications and experience in accordance with staff regulation 4.4 which was evidenced, inter alia, by the fact that they had not had before them her most recent PER (covering the period from 23 September 1983 to 2 June 1987). The Panel recognized that according to the existing guidelines, criteria and procedures followed by the APB/APC bodies at Headquarters, further spelled out in sections I-6.1, 6.3 and 6.4 of the 'Manual for Appointment and Promotion Committees at Offices away from Headquarters', PERs are required for all promotion, conversion and review decisions, however not for appointment. Nevertheless, the Panel was of the view that, even though the appellant's situation before the APB/APC bodies was technically one of recruitment, it should determine whether these bodies had properly considered her requisite qualifications and experience. It noted that the APB/APC had had before them not only a strong and positive recommendation from her Office and her official status file, but also a detailed job description of the functions performed by the appellant. Furthermore, it noted that the many requests made by OCN,

endorsed by the Under-Secretary-General, A&M, had resulted in equally numerous exceptions granting the appellant some 35 monthly contracts, during which time OPS had ample time to reconsider the appellant's situation. Finally, the Panel took note of the fact that, upon the special request of the Under-Secretary-General, A&M, the appellant's case had been before the APB/APC not once but twice which, the Panel felt, sufficiently demonstrated that these bodies had given her due consideration. While it re-emphasized that the JAB cannot substitute its judgement for that of the APB/APC bodies and that the evaluation of the appellant's qualifications fell outside its competence, the Panel found that the allegations made by the appellant were not sufficiently substantiated to show prejudice or improper motivation.

57. The Panel finally took note of the written statement of Ms. T. Kawada, witness for the appellant. Ms. Kawada stated that she had been requested by a colleague of the appellant in OCN to type a draft note which, in her view, was intended to give a negative impression of the appellant. However, since no copy of the letter could be produced and the witness was unable to specify the date of this letter, who drafted it or to whom it was supposed to be distributed, the Panel found that it could not consider this letter as evidence in the case."

The Tribunal, having reviewed the record and the contentions of the parties, concurs in the views expressed by the Joint Appeals Board for the reasons stated by it. See also Judgement No. 428, Kumar (1988).

IX. It follows from the foregoing that the Applicant could not have a legal expectancy of renewal of her fixed-term appointment beyond its final expiration date or of permanent employment; that the Applicant was not denied due process; and that it has not been demonstrated that the decisions regarding non-renewal and against permanent employment were tainted by prejudice or improper motivation.

X. With respect to the contention that the Joint Appeals Board did not take into account the feasibility of direct recruitment for up to five percent of vacant posts in any calendar year for P-1/P-2

posts, it is quite clear that this possibility was set forth in one or more of the documents before the Joint Appeals Board and, for the reasons stated by counsel for the Applicant in paragraph 4.3 of the application, it also seems likely that the chairperson of the Joint Appeals Board was independently aware of this fact. Moreover, as the Respondent points out in his answer, the question whether to utilize the five percent direct recruitment feature provided in ST/SGB/210 was a matter entirely within the discretion of the Administration. It is neither for the Joint Appeals Board, nor this Tribunal, in the absence of compelling evidence of abuse of discretion, not present here, to intervene on the question of whether or how that discretion should be exercised.

XI. With respect to the contention that the Joint Appeals Board did not take into account staff regulation 4.4, the Tribunal finds that, on the contrary, the above quoted portions of the Joint Appeals Board's report reveal that the Administration, as well as the Joint Appeals Board, had the fullest regard for the Applicant's qualifications and experience. Indeed, this was the main theme of the persistent efforts by the head of the office in which the Applicant was employed to bring about her permanent employment. The Tribunal notes that the Respondent's obligations under staff regulation 4.4 were not limited to the Applicant, but also extended to those staff members with whom she was in competition for the posts in question, and the evidence shows that the Respondent met those obligations properly.

XII. With respect to the contention that the Joint Appeals Board did not comply with the Applicant's request that the chairperson of the Appointment and Promotion Committee be heard and that the proceedings of the Appointment and Promotion Board be examined, the Tribunal cannot, in the absence of evidence of clear impropriety, interfere with the determinations of the Joint Appeals Board as to whether it will hear witnesses or other similar matters regarding

the manner in which it conducts its proceedings. In this case, the Joint Appeals Board appears to have given due consideration to what occurred before the Appointment and Promotion Committee and the Appointment and Promotion Board.

XIII. With respect to the claim that allegations of prejudice were brought to the attention of the Joint Appeals Board but it failed to investigate them further, the Tribunal has examined a memorandum dated 29 May 1987 from the Officer-in-Charge of the Office of the Commissioner for Namibia to the chairperson of the Joint Appeals Board. The Tribunal does not consider that the rather vague and equivocal comments in the last sentence of that document constituted allegations, much less proof, of prejudice sufficient to have required further action by the Joint Appeals Board. See Judgement No. 93, Cooperman, paras. X-XII (1965). The gist of the 29 May 1987 memorandum appears to be that at one time there were indications from the Office of Personnel Services that the Applicant's recruitment possibilities were positive and no particular difficulties were foreseen but that at a later stage the Office of Personnel Services took a negative position. The last sentence refers to unspecified suspicions about unidentified persons in the Office of the Commissioner for Namibia. This falls short of calling for anything more than the Joint Appeals Board's dismissal of the allegations of prejudice.

XIV. The Tribunal has also considered other contentions advanced by the Applicant as, for example, the claim that there was no prior consultation with the Office of the Commissioner for Namibia with respect to selection of the P-2 post initially encumbered by the Applicant as one reserved for the competitive examination. In fact, as noted above, the Commissioner did make known to the Office of Personnel Services his views on this subject. Yet, the reservation of the post by the Central Examination Board was upheld, and there is no reason to suppose that the result would have been different if

the Commissioner's views had been before the Board earlier. The timing of their consideration was a minor irregularity which does not affect the validity of the decision. The Tribunal does not consider any of the Applicant's other contentions meritorious. Specifically, the Tribunal does not agree that an expectancy of career service arises as a result of real or alleged mismanagement, and, as indicated above, does not consider it within the Tribunal's competence to pronounce on management methods so long as they are in accordance with applicable Charter provisions, Staff Regulations and Staff Rules. In this connection the Tribunal, like the Joint Appeals Board, has found that the Applicant had no firm commitment with regard to permanent employment. Contrary to the Applicant's contentions, the Tribunal does not find that the procedure of the Appointment and Promotion Committee and the Appointment and Promotion Board was flawed or that there was abuse by the Respondent of his authority.

XV. Nevertheless, the Tribunal notes, as did the Joint Appeals Board, that although the eventual negative decisions as to renewal of the Applicant's fixed-term appointment and her permanent employment took longer than they should have (and to some extent the Applicant benefited from this), there is a possibility - speculative though it may be - that the sequence of events might leave a cloud over the Applicant's prospects for future employment within the United Nations system. To avoid any possibility of this, the Tribunal directs that the Applicant's personnel file include a memorandum referring to this judgement of the Tribunal and stating, as is the case, that the Applicant's prior employment by the United Nations was entirely satisfactory and that it ended, despite her satisfactory performance, because of the financial problems faced by the Organization. The memorandum should also state unequivocally that the Applicant is eligible to be considered for reemployment in any post for which she is qualified. In addition, because of the unfairness to the Applicant acknowledged by the Under-Secretary-

General for Administration and Management, noted in paragraph IV above and due to errors by the Administration in the handling of her situation, the Tribunal finds that the Applicant should be compensated for the moral injury she sustained as a result, and awards her US\$1,000.-.

XVI. Subject to the preceding paragraph, the application is rejected.

(Signatures)

Jerome ACKERMAN
Vice-President, presiding

Samar SEN
Member

Ahmed OSMAN
Member

Geneva, 19 May 1989

Jean HARDY
Acting Executive Secretary