

Judgement No. 41

Case No. 46 :
Glaser

Against: **The Secretary-General
of the United Nations**

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Madame Paul Bastid, President ; the Lord Crook, Vice-President ; Mr. Sture Petré, Vice-President ;

Whereas the Tribunal ordered the rescinding of the Secretary-General's decision to terminate the Applicant's permanent appointment with the United Nations in Judgement No. 38 of 21 August 1953 ;

Whereas the Tribunal was notified by the Secretary-General in a communication dated 2 September 1953 that he had

“decided that it would be inadvisable, from the points of view which it is my duty to take into consideration, to reinstate”

the Applicant ;

Whereas the Tribunal is required therefore, in accordance with article 9 of the Statute, to “order the payment to the Applicant of compensation for the injury sustained” ;

Whereas the Tribunal has received documentation with respect to such compensation on the following dates :

Statement of Claim by the Applicant, 2 October 1953 ;

Statement by the Respondent, 2 October 1953 ;

Applicant's Answer to Respondent's Statement, 3 October 1953 ;

Respondent's Comments, 12 October 1953.

Whereas the Applicant's principal contentions are :

1. The quality of her professional work, her devotion to duty and the observance of her oath would have ensured the continuation of her employment, the receipt of normal salary increases for the five years' duration of the permanent contract granted to her on 5 July 1952 and in fact the expectation of a career in the United Nations.

2. The Secretary-General's attitude and his decision not to reinstate the Applicant will make it difficult for her to obtain employment ; she will not be able to make use of the experience acquired in the United Nations nor to obtain a salary equivalent to that she received in the United Nations. Her career has been broken and her future security destroyed.

3. The Applicant contests the Respondent's assertion that the illegality, referred to by the Tribunal in Judgement No. 38 is only of

a procedural nature and that any difficulty in finding other employment must be imputed to her own conduct.

4. The Applicant claims compensation to the amount of \$50,000.

Whereas the Respondent's answer is :

1. The Tribunal ordered the rescinding of the decision to terminate the Applicant's appointment only on procedural grounds and did not determine whether the Applicant could have been dismissed legally if the proper procedure had been followed. The Applicant's continued employment, if she had been reinstated, would have been subject to this risk.

2. The proper measure of damages is prospective earnings under the Applicant's contract less such future earnings as the Applicant might have had if she had not damaged her future earning capacity by her own conduct.

3. The action of the Secretary-General, either in his decision to terminate the Applicant's appointment or in exercising his discretion not to reinstate the Applicant, does not affect her powers of gaining a livelihood whereas the Applicant's conduct is a matter of public record. The Secretary-General's exercise of his discretion with respect to the Applicant cannot therefore be a proper basis for an additional claim for compensation.

4. The fact that the Applicant has been exercising functions calling for only clerical skill and that the demand for persons willing and able to engage in such employment is considerable in the United States makes it likely that she will be able to find employment in which the conduct which led to her dismissal will not be a handicap.

The Tribunal having deliberated on 12 and 13 October 1953, now pronounces the following judgement :

1. The injury to be indemnified is that which results from the Secretary-General's refusal to reinstate. To determine the injury suffered, the Tribunal must consider to what extent the Applicant has expectation of continued employment, taking into account the terms and nature of the contract, the Staff Rules and Regulations and the facts pertaining to the situation and must evaluate the Applicant's chances of earning a livelihood after separation from the United Nations.

2. The Tribunal has given consideration *inter alia* to the following factors :

(a) The Applicant entered the service of the United Nations in September 1947 and after previously serving with the United Nations Relief and Rehabilitation Administration.

(b) The Applicant's periodic reports indicate that she was consistently classified as "above average" and "very good"; her 1952 report states that she was "doing an excellent job".

(c) The Applicant received her permanent appointment as recently as 1 July 1952.

(d) The Applicant's first five-year review was not expected until about 30 June 1957. Thus she might have expected continued employment with the United Nations for a further period of approximately four years.

(e) No adverse comment was made by the State Department with respect to the Applicant.

(f) The Applicant's clerical skills are such as to make it possible for her to secure employment even if only at a lower salary.

(g) The Applicant's present age is 43 years.

(h) Her base salary is \$4,120 per annum.

3. In the light of all the foregoing considerations, the Tribunal orders as compensation the payment of full salary until the date of this judgement and of further compensation to the amount of \$7,500.

(Signatures)

Suzanne BASTID
President

CROOK
Vice-President

Sture PETRÉN
Vice-President

Mani SANASEN
Executive Secretary

London, 13 October 1953

Judgement No. 42

Case No. 26 :
Crawford

**Against: The Secretary-General
of the United Nations**

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Madame Paul Bastid, President ; the Lord Crook, Vice-President ; Mr. Sture Petrén, Vice-President ;

Whereas the Tribunal ordered the rescinding of the Secretary-General's decision to terminate the Applicant's temporary-indefinite appointment with the United Nations in Judgement No. 18 of 21 August 1953 ;

Whereas the Tribunal was notified by the Secretary-General in a communication dated 2 September 1953 that he had