

(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

“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, 10 September 1953 ;

Statement by the Respondent, 2 October 1953 ;

Applicant's Answer to Respondent's Statement including supplementary Statement by the Applicant, 2 October 1953 ;

Respondent's Comments, 12 October 1953.

Whereas the Applicant's principal contentions are :

1. Insofar as it was possible for a staff member of UNICEF, then a temporary organization, to have a permanent status while holding a temporary-indefinite contract, the Applicant enjoyed such a status.

2. The post held by the Applicant does not appear on the manning table for 1954, for the reason that the work done by the Applicant has since been divided among several persons, a tribute to her abilities and the importance of the position she held.

3. As to the Respondent's contention that since the Applicant's temporary-indefinite contract permitted the Secretary-General to discharge her on 30 days' notice, compensation could not exceed six months' salary, the Applicant submits that acceptance of such a contention would negate the Tribunal's previous decision in this case.

4. By refusing to reinstate the Applicant, the Secretary-General has placed her in the position of being unacceptable as an employee of the U.S. Government or of private employers. She has been unable to find employment as a writer and has found only one person willing to use her services as a ghost-writer for which she was paid \$100. The Applicant is thus completely prevented from earning a livelihood.

5. The Applicant, having spent 17 years as a writer, either in the service of the U.S. Government or the United Nations, her writings have all been anonymous and she has therefore been unable to build up a personal reputation.

6. The Applicant's present age is 52.

7. The Applicant claims compensation to the amount of \$40,000 and requests the payment of pension from the date of her normal retirement.

Whereas the Respondent's answer is :

1. 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.

2. 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.

3. UNICEF will still remain a non-permanent organization in the sense that it will be dependent upon voluntary governmental and private contributions.

4. The position held by the Applicant has not been provided for in the manning table of the 1954 budget.

5. The Applicant's temporary-indefinite contract permitted her discharge on 30 days' notice. Compensation for the loss of a contract subject to such a hazard could not reasonably exceed salary for 6 months.

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

1. Consideration cannot be given to possible changes resulting from an alteration in the status of UNICEF and of its staff. The Tribunal can only take into account the legal position of the Applicant under the terms of her contract.

2. The Tribunal is called upon under article 9 of its Statute to consider the injury caused by the Secretary-General's refusal to reinstate the Applicant.

3. With regard to the Applicant's arguments based upon the prospect of continued employment by the United Nations until retirement, the Tribunal considers, as it held in Judgement No. 11 (Howrani), that the holder of a temporary-indefinite contract has a problematical chance of continued employment rather than anything approaching a firm expectancy and cannot impute a certainty with respect to contingencies under such a contract.

4. In view of the nature of the Applicant's contract, the Tribunal is of the opinion that the damage sustained by the Applicant in consequence of the Secretary-General's decision not to reinstate her cannot be precisely calculated. However, there can be no doubt that the Applicant suffered injury by reason of the Secretary-General's refusal of reinstatement. In evaluating this injury the Tribunal has to give consideration to the spirit of the Staff Rules and Regulations and to take fully into account the circumstances surrounding the case.

5. The Tribunal orders as compensation the payment of full salary

up to the date of this judgement and of further compensation to the amount of \$4,730.

(Signatures)

Suzanne BASTID
President

CROOK
Vice-President

Sture PETRÉN
Vice-President

Mani SANASEN
Executive Secretary

London, 13 October 1953

Judgement No. 43

Case No. 50 :
Levinson

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

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Sture Petré, Vice-President and Acting President ; Mr. Omar Loutfi ; Dr. Djalal Abdoh ;

Whereas Paul Levinson, former member of the Division of Trusteeship, Department of Trusteeship and Information from Non-Self-Governing Territories, filed an application to the Tribunal on 2 July 1953, for rescission of the Secretary-General's decision of 16 October 1952 terminating his employment, and for reinstatement in his post and for compensation ;

Whereas the Respondent filed his reply to the application on 10 November 1953 ;

Whereas the Tribunal heard the parties in public session on 25 November 1953 ;

Whereas the Applicant filed on 30 November a document amplifying his application and claim for reimbursement for counsel's fees and costs of the proceedings as follows :

(a) Full salary from the date of termination to the date of reinstatement, including all benefits and within-grade increases ;

(b) Payment of counsel's fees and costs of the proceedings to the amount of \$2,500 ;

Whereas the facts as to the Applicant are as follows :

The Applicant first served as a translator in the Division of Languages, Department of Conference and General Services, on a