

Accordingly, the Tribunal rejects the claim and all subsidiary claims for damages, compensation and costs.

(Signatures)

Suzanne BASTID
President

CROOK
Vice-President

Djalal ABDOH
Member

Mani SANASEN
Executive Secretary

New York, 11 December 1953

Judgement No. 51

Case No. 45 :
Reed

***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 ; Mr. Omar Loutfi, alternate member ;

Whereas in Judgement No. 37 of 21 August 1953, the Tribunal awarded as to the Applicant Jane Reed in case No. 45, as follows :

“ 1. That she be paid \$10,000 damages to cover the period from the date of this judgement until the date on which she would normally have retired on pension, on 12 March 1955 ;

2. That she be paid in every twelve months thereafter until her death such amount as she would normally have been entitled to expect as annual pension ;

3. That if the Applicant and the Respondent mutually so agree, the amount of the annual pension referred to in (2) above may be substituted by a lump sum payment computed by actuaries as adequate compensation for the surrender of those rights to pension from the date 12 March 1955 to death.”

Whereas the Tribunal noted in so awarding that it had taken note of facts as to the Applicant as follows :

“(a) She joined the United Nations service on 1 March 1946 after previous employment with the United Nations Information Service from October 1943 until her transfer to the service of the United Nations on 1 March 1946 ;

(b) Her annual reports have been rated consistently "above average" every year with performance of work always described as "very good" or "outstanding";

(c) She has performed no other work than this specialized librarian work for United Nations Information since October 1943;

(d) She was due for review at the end of five years' service on her contract as at 12 August 1952 and, in the light of her record, had the review not been deferred, had every reason to expect continued employment until her retirement age (which is less than five years after 12 August 1952);

(e) Her age is in excess of 58 years;

(f) She might thus have expected continued employment at \$6,530 base salary per annum until 12 March 1955 and thereafter to receive the normal pension."

Whereas on 5 October 1953, the attention of the Tribunal was directed by counsel for the Secretary-General to the fact that on the computation of the pension referred to in Judgement No. 37, it had been ascertained that the facts as to the age of the Applicant placed before the Tribunal (by both parties) were stated inaccurately by one year, since she was born on 12 March 1894 and not on 12 March 1895.

Whereas the Secretary-General asked the Tribunal whether in those circumstances, the Tribunal "may consider to correct its judgement so as to provide for a reduction of the damages awarded to Miss Reed by at least 2/3 of the amount thereof."

Whereas the counsel for the Applicant filed a document on 8 October 1953 offering observations on that suggestion and making further statements;

Whereas further documents were filed as follows:

(a) By the Secretary-General on 16 November 1953;

(b) By the counsel for the Applicant on 17 November 1953.

Whereas the Tribunal considered all the documents on 3 December 1953 and found the facts to be as follows:

(a) The documentation of case No. 45, referred to in the preliminary paragraphs of Judgement No. 37 in that case, was by photostat copies (as agreed between the parties in accordance with the procedure of the Tribunal) of official documents in the personnel file of the Applicant, which file was produced to the Tribunal.

(b) Such documents included the following:

(i) An Application form (form UN/P/11) dated 26 May 1947, stating the date of birth of Mrs. Reed to be 12 March 1895.

(ii) An Application form dated 16 April 1946 stating the date of birth as being 12 March 1895.

(iii) An Application form for employment with United Nations Information Office, dated 10 March 1944, stating the date of birth to be 12 March 1895.

(c) The application of the Applicant submitted on 17 February 1953 opens with the following words :

“The Applicant, Jane Reed, is a citizen of the United States. She was born in New York City, on 12 March 1895.”

(d) At no time in the oral proceedings did the Respondent seek to correct this age reference or to question the accuracy of the official documentation submitted (see (a) above).

(e) The actual corrected date of her date of birth was discovered by Mrs. Reed on 14 July 1952 from the Bureau of Records and Statistics of the Department of Health of the City of New York and a certificate stating the facts was issued in the usual way by that Department.

(f) The certificate was produced by Mrs. Reed, in response to a request by the United Nations Joint Staff Pension Board secretariat, on 10 December 1952 five days after Mrs. Reed was separated from the Organization.

(g) Photostat copies of the certificates were supplied to the Tribunal at its request.

(h) The Tribunal requested the Administration for information as to why, in those circumstances, the correction of the age was not stated to the Tribunal when, more than three months later than 10 December 1952, viz., on 20 March 1953, the Respondent delivered his reply to the application which had stated the age and date of birth inaccurately as indicated in (c) above.

(i) The Respondent supplied the following explanation to the Tribunal, viz. :

“Since the Pension Board secretariat functions separately from the United Nations Secretariat, and since there was no occasion for the United Nations and the Pension Board to compare the records, the discrepancy was not discovered immediately after the filing of the birth certificate.

“After the decision in Miss Reed’s case was rendered by the Tribunal on 21 August 1953, the Bureau of Finance, in order to determine the total financial obligation of the United Nations under the decision to Miss Reed, requested the Pension Board secretariat to let them know the amount of money payable to Miss Reed by the Fund ; it was then that the mistake was discovered and the attention of the Tribunal was drawn to it at the very first opportunity.”

Whereas it is now clear that the wrong date of birth and statement as to age were submitted to the Tribunal by both parties, so that the

Tribunal had no opportunity of being made aware of the true facts prior to proceeding to Judgement No. 37 on 21 August 1953, the Tribunal has no option but to consider correcting the judgement in the light of the accurate facts now belatedly produced.

Whereas the Respondent requested that the damages awarded for the period prior to date of commencement of the pension payments at age of 60 be reduced "by at least 2/3 of the amount thereof";

Whereas the Applicant suggested that there was no "warrant for disturbing the award except to revise it upwards" and asked that if the Tribunal decided to re-examine the judgement, then the "question of remedial relief should be reviewed and that appropriate compensation in conformance with the original application for such relief be additionally granted";

Whereas article 10 of the Statute of the Tribunal states that its judgements are final;

Whereas the Tribunal is entitled to rectify figures computed on the basis of a date submitted by both parties and recognized by both after the judgement as erroneous;

Accordingly, the Tribunal decides:

(a) To decline to examine the request of the counsel for the Applicant for a general reconsideration of the question of remedial relief;

(b) To order that the amount of compensation provided in Judgement No. 37, which is specifically related to age and date of birth, be amended so that for the sum of \$10,000 referred to in the Judgement No. 37, there be substituted the amended sum of \$3,500.

(c) To order that the date from which thereafter she should be paid the pension referred to be amended from 12 March 1955 to 12 March 1954.

(Signatures)

Suzanne BASTID
President

CROOK
Vice-President

Sture PETRÉN
Vice-President

Omar LOUFTI
Alternate Member

Mani SANASEN
Executive Secretary

New York, 11 December 1953
