

IV. The Applicant, however, claims that under paragraph 2 of page B-77 of the Field Administration Handbook "the terms of appointment of local staff shall not normally permit payment of a termination indemnity, unless the national law of the country in which the field office is established provides for the payment of such indemnity", that the Bolivian Labour Legislation provides for such indemnity and that the Field Administration Handbook is binding on the Administration. She relies on Judgement No. 15 (Robinson).

V. In its Judgement No. 15 the Tribunal was concerned with the binding nature of the Administrative Manual. The Tribunal noted that, as provided in the Manual itself, "The Administrative Manual shall be the official medium for the issuance of administrative policies, instructions and procedures designed to implement the Staff Rules . . .". On the other hand, the introduction to the Field Administration Handbook explains its scope in the following terms:

"It is designed to assist United Nations field offices, particularly special missions and information centres, for which the Field Operations Service is the channel of administrative communication at Headquarters, in the application of (a) Staff Regulations and Rules, and (b) Financial Regulations and Rules, and to provide brief explanations of administrative policies, procedures and practices affecting them."

A comparison of the Administrative Manual with the Field Administration Handbook shows that the Field Administration Handbook is in the nature of a guide to the field offices and does not create or give rise to any contractual obligations between the Administration and the staff.

VI. In the absence of any stipulation regarding the applicability of the local law in the letter of appointment or in the Staff Regulations and Rules or in pertinent administrative instructions creating a contractual obligation between the Administration and the staff, the Tribunal holds that the Applicant's claim for termination indemnity based on local laws fails.

VII. The application is accordingly rejected.

(Signatures)

R. VENKATARAMAN

President

CROOK

Vice-President

New York, 23 September 1971

Zenon ROSSIDES

Member

Jean HARDY

Executive Secretary

Judgement No. 146

(Original: English)

Case No. 134:
Touhami

Against: The Secretary-General
of the United Nations

Request for revision of Judgement No. 135.

The competent committee rejected an application for review of Judgement No. 135.—Powers of revision of the Tribunal under article 12 of its Statute.—Consideration of the pleas of the Applicant by the Tribunal in its Judgement No. 135.—In the absence of

the discovery of some fact of a decisive nature unknown to the Tribunal and to the Applicant when the Judgement was given, the Tribunal cannot revise the Judgement.

The application is rejected.

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. R. Venkataraman, President; Mr. Francis T. P. Plimpton; Mr. Zenon Rossides;

Whereas, on 9 August 1971, the Applicant filed with the Tribunal an application requesting, under article 12 of the Statute, revision of Judgement No. 135 rendered in his case on 26 October 1970;

Whereas the Applicant's requests for revision of Judgement No. 135 were as follows:

"The revision I am requesting must include the following points:

"(a) My permanent reinstatement with UNDP Office in Rabat since 30 November 1967 with payment of my salary retroactive to that date including all appropriate advancements and legal interests;

"(b) The restitution of the five steps which have been taken wrongly and forcefully from my originally agreed upon grade;

"(c) The reimbursement of 1,000 Dirhams borrowed by the Deputy Resident Representative which I had paid on his behalf;

"(d) The most severe sanctions against UNDP elements who were in the Rabat Office."

Whereas, on 17 August 1971, the Secretary-General submitted the following observations on the application:

"...

"3. Although purportedly based on this article [article 12] of the Statute, Mr. Touhami's application is concerned with the same matters, facts, and arguments as his original application, which the Tribunal rejected on its merits in Judgement No. 135.

"4. It may be observed that the only new events mentioned in the present application are Mr. Touhami's request to the Committee on Applications for Review of Administrative Tribunal Judgements, under article 11 of the Statute of the Administrative Tribunal, and the Committee's decision that there was not a substantial basis for Mr. Touhami's request, and that therefore the International Court of Justice should not be asked for an advisory opinion in this case. (A/AC.86/12)

"5. It would, therefore, seem clear that the present application provides no basis for invoking article 12 of the Tribunal's Statute."

Whereas the facts in the case are set forth in Judgement No. 135;

The Tribunal, having deliberated from 21 September to 1 October 1971, now pronounces the following judgement:

I. The Applicant seeks revision of Judgement No. 135 dated 26 October 1970 on several pleas and an order for reinstatement in service at the appropriate level and reimbursement of 1,000 Dirhams alleged to have been borrowed from him by the Deputy Resident Representative.

II. The Tribunal notes that the Applicant sought review of Judgement No. 135 under article 11 of the Statute of the Tribunal and the Committee on Applications for Review of Administrative Tribunal Judgements decided that there was no substantial basis for the application for review.

III. Under article 12 of the Statute of the Tribunal "the Secretary-General or the Applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence".

IV. The Applicant has not produced in his application for revision any fact of a decisive nature which was not before the Tribunal during its consideration of the case. The Applicant has urged his case again in different words and arguments.

The Applicant's main plea that he was entitled to continued employment on the basis of an oral agreement and that he should have been granted a salary at a higher level on the basis of oral promises made to him at the time of his entering the service was fully considered and rejected by the Tribunal in its Judgement No. 135. The Tribunal also ruled that it had no competence to deal with the alleged borrowing of money by the Deputy Resident Representative.

The Applicant has elaborated arguments in the present application that oral agreements are binding and that contracts may be express or implied but he has not presented any new facts that call for the revision of the decision.

V. In the absence of the discovery of some fact of a decisive nature unknown to the Tribunal and to the Applicant when the Judgement was given, the Tribunal cannot revise the Judgement.

VI. The application is therefore rejected.

(Signatures)

R. VENKATARAMAN
President

Francis T. P. PLIMPTON
Member

Zenon ROSSIDES
Member

Jean HARDY
Executive Secretary

New York, 1 October 1971

Judgement No. 147

(Original: French)

Case No. 142:
Thawani

Against: The United Nations Joint
Staff Pension Board

Request by a FAO staff member for validation by the Joint Staff Pension Fund of service completed before his participation in the Fund.

Request for the rescission of the decision by the Respondent refusing to validate the Applicant's prior service.—Cancellation by the Applicant of his first request for validation and refund of the three monthly instalments he had already paid.—The