



Administrative Tribunal

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ORIGINAL: ENGLISH

ADMINISTRATIVE TRIBUNAL

Judgement No. 351

Case No. 330: HERRERA

AGAINST: The Secretary-General
of the United Nations

THE ADMINISTRATIVE TRIBUNAL,

Composed of Mr. Arnold Kean, Vice-President, presiding; Mr. Herbert Reis; Mr. Roger Pinto;

Whereas on 10 May 1984, Jorge Alejandro Herrera, a former staff member of the United Nations, filed an application, the pleas of which read as follows:

"(a) Preliminary or complementary measures:

- i. Official communication in Spanish to the 'Director Nacional del Instituto Nacional de Estadística (INE), Avenida Presidente Bulnes 418, Santiago, Chile'. To confirm the prices given in Annex No
- ii. Official communication in Spanish to the 'Presidente del Colegio Médico de Chile A.G., Esmeralda 678, Santiago, Chile'. To confirm professional fees of a Specialist Physician for an individual consultation, in 1976.
- iii. Official communication in Spanish to the 'Director Nacional del Servicio de Impuestos Internos (Internal Revenue Service), Teatinos 120, Santiago, Chile'. Asking the reasons why this Service must change the system of sales receipts (Boletas de Venta), giving instead now the copy to the buyer and demanding the original to be kept by the retailer or professional for the control of an Officer of the Chilean Internal Revenue Service.

(b) Contesting Secretary-General's decision to dismiss the applicant on the 17th April 1978.

(c) The whole process of the Ad-hoc Committee must be declared invalid and void.

(d) Full termination indemnity. Granting in addition a sum equivalent to at least six month whole salary at the rate prevailing at the present date, considering the injuries suffered by the applicant, being dismissed without clear and true evidence.";

permanent appointment.

In a memorandum dated 31 March 1977 the Applicant was informed by the Acting Chief, Personnel Section, ECLA that an investigation had been initiated in accordance with the provisions of Personnel Directive PD/1/76 concerning "Disciplinary Procedure for Staff Serving at Offices away from Headquarters and Geneva". J. Van Breda Medical Insurance Company, hereinafter referred to as "Van Breda", had made allegations to the effect that the Applicant had submitted false medical claims to the insurance company for reimbursement. In addition, the Applicant was informed that Van Breda would continue to examine all documents submitted by the Applicant for reimbursement of medical expenses and would advise ECLA of the outcome. The Applicant was also informed that Headquarters, New York had been notified of the case. The Applicant was asked to provide his written version of the facts; suggest other persons whom the Office of Personnel Services might interview, and name witnesses in his favour. He was advised that he could resort to a staff member of his choice at the duty station, to assist him in his defense.

On the same date, the Applicant was further informed by the Acting Chief, Personnel Section, ECLA that in accordance with Staff Rule 110.4, the Assistant Secretary-General for Personnel Services had authorized the suspension of his services without pay effective 1 April 1977 "during the investigation of the charges made against [him]" and "without prejudice to [his] rights as a staff member".

