

the case law of the League of Nations Tribunal (Judgements No. 13 of 7 March 1934 and No. 24 of 26 February 1946), "il n'y a aucune raison pour déroger au principe général de droit que les dépens, sauf compensation, sont payés par la partie qui succombe", the Tribunal considers that it is competent to pronounce upon the costs.

The Tribunal awards an amount of \$300 and so orders.

(Signatures)

Suzanne BASTID
President

CROOK
Vice-President

Sture PETRÉN
Vice-President

Omar LOUTFI
Alternate Member

Mani SANASEN
Executive Secretary

Geneva, 21 August 1953

Judgement No. 39

Case No. 40 :
Eldridge

**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. 32 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 2 October 1953
Respondent's Comments, 12 October 1953 ;

Whereas the Applicant's principal contentions are :

1. The Applicant displayed outstanding competence and exceptional professional ability during her service with the United Nations.

2. Her acceptance of employment with the Food and Agriculture Organization and later with the United Nations Secretariat, was in response to offers of employment which were expressly addressed to her.

3. As a demographer, the Applicant has specialized in a relatively small and limited field where opportunities of employment are rare.

4. Since demographers function almost exclusively in government agencies and some universities, employment would now be practically closed to the Applicant.

5. No adverse comment upon the Applicant was made by the State Department.

6. In her testimony before the Internal Security Sub-Committee of the Judiciary Committee of the United States Senate in closed session, she replied in the negative to the question whether she had ever engaged in subversive activities or espionage.

7. The Applicant contests the Respondent's assertion that Judgement No. 32 was based solely on procedural grounds.

8. The Applicant points out that the indemnity should be greater where the Secretary-General denies reinstatement sought by the Applicant than where the Applicant chooses indemnity in lieu of reinstatement. The Secretary-General's rejection of the Applicant's request is in itself a serious added injury.

9. The Applicant asserts that it was her "status as an international servant that moved her to resist an inquiry along political lines."

10. The Applicant claims compensation to the amount of \$55,000 and requests the payment of pension from the age of 60 appropriate for an average salary of \$5,000 for 11 years.

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 Respondent asserts that the Applicant's inability to find other suitable employment is due to her own actions and is not the fault of the United Nations.

5. The Applicant is not entitled to derive comfort from the fact that no governmental committee or other body has stated suspicions about her since no characterization can add or detract from her conduct which is a matter of public record.

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 Food and Agriculture Organization in June 1947 and that of the United Nations Secretariat in June 1950.

(b) The Applicant's periodic reports show that she displayed exceptional professional ability and competence and was uniquely fitted for her assignment.

(c) In accepting employment with the Food and Agriculture Organization and later with the United Nations Secretariat, the Applicant acted in response to offers of employment which were expressly addressed to her.

(d) The Applicant has held a permanent appointment throughout her employment with the United Nations.

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

(f) The Applicant's professional reputation was such as to lead Columbia University to ask that she might be permitted to give a series of lectures, which invitation she was authorized to accept by the United Nations on 23 July 1952.

(g) The Applicant's present age is 49.

(h) Her base salary was \$9,460 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 \$16,000.

(Signatures)

Suzanne BASTID
President

CROOK
Vice-President

Sture PETRÉN
Vice-President

Mani SANASEN
Executive Secretary

London, 13 October 1953

Judgement No. 40

Case No. 38 :
Svenchansky

**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. 30 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;