

UNITED NATIONS ADMINISTRATIVE TRIBUNAL

Judgement No. 1

Cases Nos. 1 to 15 :
Aubert and 14 others
and
Intervention No. 1 : Hall

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

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Having been seized of the application for intervention made to the Tribunal by Mrs. Marjorie L. Zap on behalf of the Staff Committee of the Staff Association, who is assisted by Mr. Telford Taylor as counsel ;

Having heard Mr. Telford Taylor representing the Staff Association of the United Nations ; Mr. R. Harpignies, Counsel for the Applicant ; Mr. W. W. Cox, Counsel for the Administration ;

Has pronounced, in public hearing of 29 June 1950, the following judgement :

Whereas this application for intervention is made in pursuance of article 2, paragraph 2 (b), of the Statute of the Administrative Tribunal of the United Nations and of article 16 of the Rules of the said Tribunal ;

The applicant for intervention invokes her right to represent the interests of staff members of the United Nations who hold permanent contracts and who, according to the applicant for intervention, would be entitled to submit individual and separate applications for intervention ;

Whereas the competence of the Tribunal is defined strictly by the terms of its Statute as approved by the General Assembly of the United Nations ;

The Tribunal is competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members (article 2, paragraph 1, of the Statute) ;

The Tribunal is open :

(a) To any staff member of the Secretariat of the United Nations even after his employment has ceased, and to any person who has succeeded to the staff member's rights on his death ;

(b) To any other person who can show that he is entitled to rights under any contract or terms of appointment, including the provisions of staff regulations and rules upon which the staff member could have relied ;

Under article 16, paragraph 1, of the Rules, the right to intervene is granted exclusively to persons who come within the terms of article 2, paragraph 2 of the Statute and " whose rights may be affected by the judgement " (article 6, paragraph 2 (d), of the Statute) ;

Whereas it is reasonable to admit that the decision to be given may, in a general manner, affect the interest which the staff members of the United Nations have in seeing that the contracts of employment and terms of appointment of all staff members are observed by the Administration, nevertheless the contention does not seem admissible that the individual contractual rights of each staff member holding a permanent contract can be directly affected by this decision ;

Whereas the terms of article 2, paragraph 2, state explicitly that the Tribunal is only open to " any staff member " of the Secretariat of the United Nations or to " any other person " as already defined and the Staff Association cannot, by its very nature, be deemed to be covered by this provision ;

Whereas, moreover, the Staff Association in accordance with article 17, paragraph 2, of the Rules of the Tribunal, has available means allowing it to bring its views before the Tribunal and it is open to the said Association, if it should think desirable, to arrange for representation in accordance with the principles of article 12 of the said Rules ;

Now, therefore

The Administrative Tribunal of the United Nations decides to disallow the application for intervention made by Mrs. Marjorie L. Zap on behalf of the Staff Committee and to grant a hearing to the representative of the Staff Association in accordance with article 17, paragraph 2, of the Rules.

Judged and pronounced in public hearing on 29 June 1950, by Lieutenant-General His Highness Maharaja Jam Saheb of Nawanager, President ; Madame Paul Bastid, Vice-President ; Sir Sydney Caine, Vice-President, who have affixed their signatures hereto together with Mani Sanasen, Executive Secretary of the Administrative Tribunal.

(Signatures)

Sydney CAINE

Digvijaysinhji of NAWANAGAR

Suzanne BASTID

Mani SANASEN