

**Judgement No. 80***(Original: French)***Case No. 77:**  
**Snape***Against:* **The Secretary-General  
of the United Nations**

*See note on Judgement No. 76 above, except as regards the award of compensation in respect of injury sustained.*

**THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,**

Composed of Madame Paul Bastid, President ; Mr. Francisco A. Forteza ;  
Mr. Harold Riegelman ;

Whereas Thorburn Snape, proof-reader, P-1 level, serving in the European Office of the United Nations, filed an application with the Tribunal on 10 March 1958 and amended the claims thereof on 7 August 1959 ;

Whereas the application as amended requests the Tribunal :

(a) to admit his application ;

(b) to rescind the decision of 25 March 1957, as well as the decision of 6 December 1957 by which the Secretary-General rejected the recommendation of the Joint Appeals Board, made on 8 August 1957, that the Applicant should be reclassified to the P-2 level ;

(c) to order that, if the Administration fails to reclassify the Applicant to the P-2 level with retroactive effect from the date of his request to the Secretary-General, *i.e.* 7 March 1957, there be granted to him from that date and until the date of his reclassification to the P-2 level, compensation in adjustment of the difference between the respective salary and benefits of levels P-1 and P-2 ;

(d) to order the reimbursement of the sum of 375.50 Swiss francs representing the amount of motor-vehicle taxes which the Applicant has paid to the Services cantonal des automobiles, Geneva, from 30 May 1956 to date and from which the Applicant would have been exempted if he had been in the P-2 level ;

(e) to order the payment of legal costs ;

Whereas the Respondent delivered his answer on 7 May 1958 ;

Whereas oral statements were taken on 21 May 1958 at the European Office of the United Nations in accordance with article 9, paragraph 3, of the Rules of the Tribunal ;

Whereas, in addition, the parties submitted written statements on 16 March and 24 April 1959 ;

Whereas at public hearings held on 4 and 5 August 1959 the Tribunal heard one witness and the parties ;

Whereas the parties submitted, at the request of the Tribunal, additional written statements on 4, 5, 6, 7, 8, 10 and 12 August 1959 ;

Whereas the Applicant, on 7 August 1959, amended as aforesaid the claims he had filed on 10 March 1959 ;

Whereas the Applicant is a proof-reader who has held a permanent contract since 1957 ; upon entering the employment of the United Nations in April 1955,

he was placed in the P-1 level and assigned to duty at the European Office of the United Nations, Geneva ; and the facts of the case thereafter are the same as those of Case No. 73, as reported in Judgement No. 76, rendered in respect of the application of Marcel Champoury ;

Whereas the Applicant's principal contentions are the same as those reported in Judgement No. 76 ;

Whereas the Respondent's principal contentions are the same as those reported in Judgement No. 76, with the exception of those concerning Information Circular No. 309, in respect of which the Respondent maintains that the Applicant cannot rely on the said Circular in view of the fact that he entered the employment of the United Nations after the former system of staff classification was abolished ;

The Tribunal, having deliberated from 5 to 17 August 1959, now pronounces the following judgement :

I. The text of section I of Judgement No. 76 constitutes the text of section I of this judgement.

II. In support of his request for the rescinding of the contested decisions, the Applicant relies on two documents, *viz.* Staff Regulation 2.1 and Circular No. 309 issued by the Director of the European Office.

Circular No. 309 was issued at the time when a new system of staff classification was introduced in 1951. It indicated the new levels to be assigned to staff members who under the former system had been in grade 10 or higher. Inasmuch as the Applicant entered the employment of the United Nations only after the abolition of the former system, the Circular is not applicable to him, and he cannot base a claim on it before this Tribunal, even on the assumption that the Circular has the force of a regulation.

III. The text of section III of Judgement No. 76 constitutes the text of section III of this judgement.

IV. The text of section IV of Judgement No. 76 constitutes the text of section IV of this judgement.

V. The text of section V of Judgement No. 76 constitutes the text of section V of this judgement.

VI. The Tribunal has considered the length of service of the Applicant and his seniority in the P-1 level. He was born in 1920, and was recruited by the United Nations in 1955 at the P-1 level, step 1. He was given a probationary contract, which was changed to a permanent contract as from 1 December 1957. The Applicant is now in step 5 of the P-1 level. The Tribunal has noted, in this connexion, the information furnished by the Secretary-General regarding twenty-six proof-readers now employed at Headquarters. According to this information, nine of these proof-readers, placed in the P-2 and P-3 levels, never served at the P-1 level ; three others, now at the P-2 level, remained at the P-1 level for an average period of three years and two months ; the fourteen others have been at the P-1 level for an average period of two years and eleven months. By contrast, the average period of service of the Geneva P-1 proof-readers at the P-1 level exceeds seven years.

VII. The text of section VII of Judgement No. 76 constitutes the text of section VII of this judgement.

VIII. The text of section VIII of Judgement No. 76 constitutes the text of section VIII of this judgement.

IX. The text of section IX of Judgement No. 76 constitutes the text of section IX of this judgement.

X. The text of section X of Judgement No. 76 constitutes the text of section X of this judgement.

XI. The text of section XI of Judgement No. 76 constitutes the text of section XI of this judgement.

XII. The text of section XII of Judgement No. 76 constitutes the text of section XII of this judgement.

XIII. The text of section XIII of Judgement No. 76 constitutes the text of section XIII of this judgement.

XIV. The text of section XIV of Judgement No. 76 constitutes the text of section XIV of this judgement.

XV. The text of section XV of Judgement No. 76 constitutes the text of section XV of this judgement.

XVI. The text of section XVI of Judgement No. 76 constitutes the text of section XVI of this judgement.

XVII. The following conclusions arrived at by the Tribunal are based upon and limited to the circumstances peculiar to this case, where a thorough review of the facts has established that there exists in practice parity of duties and responsibilities of two groups of Professional staff members differently classified.

XVIII. The decision of 6 December 1957 is, in the opinion of the Tribunal, based on an erroneous interpretation of the Respondent's powers under Staff Regulation 2.1 ; it is therefore rescinded.

The decision of 25 March 1957 is rescinded to the extent that it might imply a similarly motivated rejection of the Applicant's claim.

In consequence of the rescission of the contested decisions and in view of the Tribunal's findings concerning the right of the Applicant to reclassification, the Respondent is bound to exercise his competence in the matter of reclassification in conformity with Staff Regulation 2.1

XIX. The Tribunal recognizes that the Applicant's reclassification to the P-2 level may be subject to certain procedures now in effect or hereafter to be adopted in the interest of the sound administration of United Nations staff. The Tribunal therefore decides that the Respondent should proceed to reclassify the Applicant to the P-2 level with all speed consistent with the said procedures.

For the purposes of the preceding paragraph the Tribunal considers that these proceedings remain open and that the Applicant may, if necessary, directly seize the Tribunal of any supplementary application.

XX. The Applicant requests the Tribunal to order that if the Administration fails to reclassify him to the P-2 level with retroactive effect from the date of his request to the Secretary-General, *i.e.* 7 March 1957, there be awarded to him, as from that date and until the date of his reclassification to the P-2 level, compensation in adjustment of the difference between the respective salary and benefits of levels P-1 and P-2.

The Tribunal interprets this request as being made under article 9, paragraph 1, of its Statute and as contemplating the situation in which the Secretary-

General should decide, within thirty days, that the Applicant shall be compensated without further action being taken in his case. The Tribunal decides that in that event the Applicant shall receive, as from the date of this judgement, a monthly compensation in an amount equal to the difference between the net monthly salary and benefits which the Applicant will be receiving in his present level and the net monthly salary and benefits to which the Applicant would be entitled if he were placed in the P-2 level on the date of this judgement. This monthly compensation shall be paid until the Applicant's employment by the United Nations in his present capacity and level ceases or until an agreement is reached between the Secretary-General and the Applicant. The total amount of the compensation so paid to the Applicant shall not exceed the equivalent of one year's net annual base salary of the Applicant at the rate existing on the date of this judgement.

XXI. On page 2 of his application dated 5 March 1958 and filed on 10 March 1958, the Applicant requested the Tribunal to order that in compensation for the moral injury he had sustained since 7 March 1957, *i.e.* after two years of service, there be granted to him the sum of 8,550 Swiss francs as damages. This request does not appear in the claims which the Applicant submitted on 7 August 1959 in lieu of those set out on page 2 of his application. The Tribunal is therefore not called upon to adjudicate this point.

XXII. As regards the payment of costs, the Applicant indicated that his request was for the reimbursement of counsel's fees and expenses connected with these proceedings and asked the Tribunal to assess the sum to be reimbursed. The Tribunal, having regard to its resolution of 14 December 1950 and considering the nature and circumstances of the case, orders the Respondent to pay the sum of \$200 as costs.

XXIII. The Tribunal dismisses all claims and contentions of the Applicant other than those expressly admitted in this judgement.

*(Signatures)*

Suzanne BASTID  
*President*

Francisco A. FORTEZA  
*Member*

Harold RIEGELMAN  
*Member*

Nicholas TESLENKO  
*Executive Secretary*

*Geneva, 17 August 1959.*

*Statement by Mr. Harold Riegelman*

*(Original: English)*

I have read the final draft of the judgement in this case in English and I concur with the decision.

*(Signature)*

Harold RIEGELMAN

*Geneva, 17 August 1959.*