

and pharmaceutical costs, for compensation for deterioration of his health, and for damages for mental and moral injury.

The Tribunal also rejects the claim for costs and legal fees.

XII. The application is rejected.

(Signatures)

R. VENKATARAMAN
President

CROOK
Vice-President

Suzanne BASTID
Member

Geneva, 22 May 1969

Z. ROSSIDES
Member

Jean HARDY
Executive Secretary

Judgement No. 130

(Original: French)

Case No. 126:
Zang-Atangana

Against: The Secretary-General
of the United Nations

Suspension without pay and dismissal for misconduct of a staff member holding a fixed-term contract.

Some pleas were not submitted to the Joint Appeals Board and are not receivable.

Request for the rescission of the decisions to suspend the Applicant without pay and to dismiss him for misconduct.—Disciplinary measures taken without reference to a Joint Disciplinary Committee.—A preliminary investigation was conducted.—The Tribunal has the right to ascertain whether a procedure respecting the rights of the defence was followed.—Belated agreement of the Applicant to comply with a transfer order.—Disregard of this change of position in the reasons for the disciplinary measures given to the Applicant.—For a disciplinary measure to be valid, the reasons for it must be stated with a reasonable degree of precision and with due regard for the facts, particularly in the case of a staff member who does not have the guarantees provided by referral to a Joint Disciplinary Committee.—Staff members serving away from Headquarters and the United Nations Office in Geneva do not have the benefit of the Joint Disciplinary Committee procedure.—Need for the establishment of an equivalent procedure for these staff members.—The contested decisions do not satisfy the requirements of a procedure respecting the rights of the defence and are not well founded.—It is impossible to order the reinstatement of the Applicant.—Award to the Applicant of a \$3,000 indemnity for the injury sustained.

The rest of the application is rejected.

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. R. Venkataraman, President; Madame Paul Bastid;
Mr. Louis Ignacio-Pinto;

Whereas, on 29 July 1968, Joseph-Marie Zang-Atangana, former staff member of the United Nations, filed an application with the Tribunal concerning disciplinary measures taken against him by the Secretary-General;

Whereas, the application not having been filed within the time-limit of ninety days provided for in article 7, paragraph 4, of the Statute of the Tribunal, the Tribunal decided, on 24 October 1968, to grant the Applicant the benefit of the provisions of article 7, paragraph 5, of the Statute;

Whereas the application did not fulfil all the formal requirements laid down in article 7 of the Rules of the Tribunal;

Whereas, after having made the necessary corrections, the Applicant resubmitted his application on 30 November 1968;

Whereas, in the pleas of the application, the Applicant requests the Tribunal:

1. To rescind the decision of the Executive Secretary of the Economic Commission for Africa to transfer him to Addis Ababa, as well as the consequences of that decision, namely:

(a) The measure of suspension without pay imposed by the Director of Personnel;

(b) The decision of the Director of Personnel to cancel his contract with the United Nations;

(c) The decision of the Chief of the Division of Administration at Addis Ababa cancelling his return air ticket to Paris.

2. To order that he should be paid as compensation for the material and moral injury which he has sustained as a result of these measures, the equivalent of two years' salary calculated on the basis of his grade at the time of the breach of contract, but according to the salary scale in force at the time when the Tribunal renders its decision.

3. To order the restoration of the original position which obtained in September 1966.

Whereas the Respondent filed his answer on 13 February 1969;

Whereas the Applicant filed written observations on 3 April 1969;

Whereas, on 6 May 1969, the Respondent replied to questions put by the Tribunal concerning a letter which the Applicant had sent to the United Nations Resident Representative at Kinshasa on 6 February 1967;

Whereas the facts in the case are as follows:

The Applicant entered the service of the United Nations on 25 June 1965 as Director of the Sub-Regional Office of the Economic Commission for Africa (ECA) at Kinshasa, at the P-4 level, on a fixed-term appointment for two years. On 21 September 1966, the Executive Secretary of ECA informed the Applicant that on 1 November he would be transferred to the Commission's Headquarters at Addis Ababa. On 21 October 1966, after an exchange of communications with the Chief of the Division of Administration of ECA concerning the arrangements for his transfer, the Applicant wrote to the Executive Secretary of ECA to explain the reasons why he was hesitant to leave for Addis Ababa. The Executive Secretary replied by a cable of 25 October 1966 that he expected the Applicant to report for duty in Addis Ababa in the first days of November. On 29 October 1966, the Applicant informed the Executive Secretary that he was ready to go to Addis Ababa and would take advantage of that opportunity to

explain his position in person. On 4 and 8 November 1966 respectively, the Chief of the Division of Administration invited the Applicant to specify the date of his arrival and informed him of the travel arrangements made for him and his family. On 10 November 1966, the Applicant, whose departure had been delayed by illness, sent the Chief of the Division of Administration a cable in which he stated that he had been misunderstood; he recalled the "considerations of principle" and "personal reasons" mentioned in his letters of 21 and 29 October 1966 to the Executive Secretary, which prevented him from effecting the requested transfer, but said he was prepared to proceed alone to Addis Ababa to explain his position to the Executive Secretary. By a cable of 12 November 1966, the Executive Secretary replied that the instructions for the Applicant's transfer remained unchanged, notwithstanding his letters of 21 and 29 October; there was no objection to the Applicant's family remaining in Kinshasa until the end of the school year, but he expected the Applicant to report for duty in Addis Ababa without further delay. On 2 December 1966, the Executive Secretary reminded the Applicant of his cable of 12 November. On 5 December 1966, he instructed his Special Adviser to inform the Applicant in writing that he was to report to Addis Abada not later than 15 December and that if he did not do so the Executive Secretary would have no alternative but to recommend termination of the Applicant's contract for failure to comply with instructions. The Applicant replied by a memorandum of 7 December 1966, addressed to the Special Adviser of the Executive Secretary, in which he stated that he was ready to obey orders, but that to abandon a specific post for which he had been expressly recruited for a hypothetical post whose nature was persistently concealed from him, within six months of the expiration of a contract which would not necessarily be renewed, was inconsistent with the letter and the spirit of his contract. In the meantime, on 6 December 1966, the Applicant had cabled the Executive Secretary to inform him that he was ready to proceed alone to Addis Ababa to explain his position orally. Next day, the Executive Secretary replied by cable that the Applicant's message could not be interpreted otherwise than as a refusal to accept transfer to Addis Ababa and that the Executive Secretary therefore had no alternative but to recommend to the Director of Personnel the termination of the Applicant's appointment. On 9 December 1966, the Applicant wrote to the United Nations Director of Personnel to explain the dispute between himself and the Executive Secretary of ECA. By cable No. 806 of 22 December 1966, the Director of Personnel informed the Applicant that his letter of 9 December provided no basis for him to refuse or even to defer compliance with the Executive Secretary's instructions; the Director of Personnel therefore insisted that the Applicant should reply by return cable that he would report to Addis Ababa no later than 3 January 1967, otherwise the Director of Personnel would be obliged to recommend that the Secretary-General should suspend the Applicant from duty pursuant to Staff Rule 110.4, pending an investigation. The Applicant replied to the Director of Personnel by a cable of 30 December 1966, in which he stated that he had been misunderstood, expressed regret at the turn of events and asked to be heard personally. On 4 January 1967, the Director of Personnel sent the Applicant the following cable:

"In conformity my 806 and pursuant Staff Rule 110.4 you are hereby suspended from duty without pay pending investigation your failure comply with ExecSec instructions after express warning from Director of Personnel. You may submit promptly by pouch your evidence you have been misunderstood. Only after that is reviewed can decision be taken on your request to

be heard in person. Present decision taken without prejudice either to possible reinstatement or to full disciplinary measures to be decided by SecGen if your explanation is not completely satisfactory."

By a cable of 6 January 1967, the Applicant protested to the Director of Personnel against the decision to suspend him and by a letter of 7 January 1967 explaining why he had been misunderstood, he requested the Director to revoke the decision. On 6 February 1967, the Applicant wrote to the United Nations Resident Representative in Kinshasa, with whom he had had an interview the same day, in order to "confirm" his "willingness to proceed to Addis Ababa" and ask the Resident Representative "to inform the proper authorities of the change in [his] position". On 2 March 1967, the Director of Personnel sent the Applicant the following cable:

"On behalf of the Secretary-General I regret to inform you that the Secretary-General, after profound study, has decided to terminate your appointment with the United Nations and to confirm your suspension without pay in application of the disciplinary measures under Staff Rule 110.3. This cable constitutes the official notice of your termination, which will become effective on the date on which you receive this cable. As your services are not required during the period of notice, which is thirty days in the case of staff members with a fixed-term appointment, you will be paid compensation in lieu of notice in accordance with Rule 109.3 (c). The Secretary-General has also decided that you shall be paid an indemnity equivalent to five days' pay for each month of uncompleted service prior to the expiration of your two-year contract, the amount of that indemnity being not less than thirty working days' pay, as provided in Annex III (b) to the Staff Regulations. All other sums due for accrued annual leave and for repatriation will also be paid to you in accordance with the Staff Regulations and Rules."

The Applicant having filed an appeal with the Joint Appeals Board, the Board submitted its report on 6 December 1967. The section of the report entitled "Conclusions and Recommendations" reads as follows:

"Conclusions and Recommendations"

"45. On the basis of these considerations, the Board comes to the following conclusions:

- "(i) That the appellant was duty-bound to accept the transfer to ECA Headquarters;
- "(ii) That, at the initial stage when the case was being handled by the ECA Administration, the appellant's reaction to the instructions of transfer could not be qualified as a deliberate and wilful refusal to comply with the instructions;
- "(iii) That his failure to report to duty in Addis Ababa after the express warning by the Director of Personnel constituted a *prima facie* case of breach of discipline which warranted his suspension from duty pending investigation under Staff Rule 110.4;
- "(iv) That the meaning of Staff Rule 110.4 requires an independent investigation, rather than an administrative review, and that this was not done in the appellant's case. The non-application of the proper procedure raises serious question in the mind of the Board as to the validity of the disciplinary measures taken;

“(v) That, taking into account the circumstances of the case and in view of the appellant’s failure to report to work in Addis Ababa, the Board is of the opinion that adequate grounds exist for the termination of his fixed-term appointment under Staff Regulation 9.1 (b). The Board notes that termination would also be in line with the course of action originally recommended by the Executive Secretary of ECA.

“46. The Board therefore unanimously recommends to the Secretary-General that in lieu of the disciplinary measures of dismissal and suspension without pay with retroactive effect, as communicated to the appellant by the Director of Personnel’s cable of 3 March 1967, the appellant’s fixed-term appointment be terminated under Staff Regulation 9.1 (b) with effect from 4 March 1967, the date on which the notice of the disciplinary measures was transmitted to him.”

On 1 February 1968, the Acting Director of Personnel informed the Applicant that the Secretary-General had decided not to implement the Board’s recommendation for the following reasons:

- “(1) You were duty-bound to accept the transfer to ECA Headquarters and the Board has recognized that your refusal to obey, despite the various possibilities offered to you, was unjustifiable;
- “(2) All the reservations you made concerning your transfer were answered by direct communications, but it seems clear that your most serious reservation was based on the contention that in your view you had been appointed for a post in Kinshasa and not a post in Addis Ababa and on the fact that you had some doubts as to whether it would be possible to do constructive work at Addis Ababa;
- “(3) The meaning of Staff Rule 110.4 did not require an independent adversary proceeding equivalent to the Joint Disciplinary Committee. The preliminary investigation by the Office of Personnel was consistent with Staff Rule 110.4. Such an investigation takes place prior to any disciplinary initiative, whether or not a Joint Disciplinary Committee is required by the rules applicable to the specific case, and it is therefore fact-finding in character, not in itself either disciplinary or adjudicative;
- “(4) According to Staff Regulation 9.1 (b), the appointment of a staff member may be terminated if the post of the person concerned is abolished, if his services prove unsatisfactory or for reasons of health. Your refusal to comply with the transfer order falls within the scope of unsatisfactory *conduct*, in the sense of Staff Regulation 10.2, and not within that of unsatisfactory *services* in the sense of Staff Regulation 9.1 (b);
- “(5) Neither the Staff Rules nor equity would justify the amendment of the decisions to suspend and dismiss you.

“In view of the foregoing, the Secretary-General has decided to confirm the decision to suspend you, with effect from 4 January 1967, which he took pursuant to Staff Rule 110.3 and the decision to dismiss you for misconduct, with effect from 5 March 1967, which he took pursuant to Staff Regulation 10.2.”

On 29 July 1968, the Applicant filed the aforementioned application.

Whereas the Applicant's principal contentions are:

1. The Applicant did not refuse to obey an order. Moreover, the order was not consistent with the letter or the spirit of his contract, which mentioned Kinshasa as the duty station. Furthermore, the Applicant was given no information about his future duties.

2. Staff Rules 110.4 and 110.3 were used for purposes other than those for which they were intended. Those rules apply to permanent staff members and not to staff members holding fixed-term appointments, who are governed by a particular set of rules, given to them in the form of a letter of appointment. Although the range of penalties mentioned in Staff Rule 110.3 is appropriate in the case of permanent staff members, the letter of appointment offers temporary staff members only one alternative: either they give satisfaction and are permitted to perform their task until its conclusion, or they do not give satisfaction and their contract is terminated—before the expiration of the appointment if their misconduct is serious, or at the expiration of the appointment if it is not. The measure of dismissal, which would have been administratively proper if it had been imposed in September 1966, was administratively and legally improper when imposed six months later. The confirmation of the measure of suspension totally changed the nature of the suspension pending investigation by transforming it into a disciplinary measure.

3. Disciplinary measures should be imposed separately, in proportion to the seriousness of the alleged misconduct. Consequently, each of them—and *a fortiori* the most severe, dismissal—is self-sufficient.

4. The imposition of a penalty on a staff member without having given him access to his file or permitted him to defend himself in the normal manner seems to constitute a denial of justice.

Whereas the Respondent's principal contentions are:

1. The transfer order was legal. Since the letter of appointment specified that the appointment was offered subject to the provisions of the Staff Regulations and Staff Rules, the appointment was subject to Staff Regulation 1.2. Paragraph 1 of the letter of appointment, entitled "Initial Assignment", applied only to the initial assignment which the Applicant was to occupy subject to any subsequent variation which the Secretary-General might decide upon under Staff Regulation 1.2. The authority to assign staff members to a specific post is necessarily a matter of a general rule, so that the Secretary-General was not called upon to obtain the specific agreement of the Applicant before transferring him.

2. The Secretary-General has the discretionary authority to decide which of the measures—whether disciplinary or other—authorized in the Staff Regulations and Rules should be applied to a staff member whose conduct is unsatisfactory.

3. The initial investigation was essentially an administrative action.

4. The rule calling for prior referral to a Joint Disciplinary Committee is expressly limited to cases of "staff members serving at Headquarters". Furthermore, all staff members have the right of due process through administrative remedies.

5. The provisions governing disciplinary measures make no distinction whatsoever between the holders of different types of appointment.

6. The dismissal of the Applicant was governed by the Staff Regulations and Rules, and his appointment was terminated in accordance with their provisions.

7. The fact that the period of suspension imposed as a disciplinary measure coincided with the period of suspension pending investigation was logical and legally justified.

The Tribunal, having deliberated from 6 to 23 May 1969, now pronounces the following judgement:

I. The Tribunal notes that some of the Applicant's pleas were not submitted to the Joint Appeals Board. These pleas concern the rescission of the decision of the Executive Secretary of the Economic Commission for Africa to transfer the Applicant from Kinshasa to Addis Ababa and a decision of the Chief of the Division of Administration at Addis Ababa cancelling the Applicant's return air ticket to Paris. Since they do not satisfy the conditions laid down in article 7, paragraph 1, of the Statute of the Tribunal, these pleas are not receivable.

II. The Applicant requests the rescission of the measure of suspension without pay imposed by the Director of Personnel, and the Director of Personnel's decision to terminate his contract with the United Nations.

The Tribunal notes that, on 2 March 1967, the Director of Personnel informed the Applicant that the Secretary-General had decided to terminate his appointment with the United Nations and to "confirm" his "suspension without pay" in application of the disciplinary measures provided for in Staff Rule 110.3.

Consequently, as disciplinary measures, the Applicant was finally suspended without pay as from 4 January 1967 and dismissed for misconduct on 5 March 1967.

An appeal contesting the validity of these measures was submitted to the Joint Appeals Board and on 6 December 1967, the Board recommended to the Secretary-General that the disciplinary measures should be replaced by termination of the Applicant's appointment in accordance with Staff Regulation 9.1 (b), with effect from 4 March 1967.

By a decision with a statement of reasons communicated to the Applicant on 1 February 1968, the Respondent confirmed the disciplinary measures taken previously. The application submitted to the Tribunal is, therefore, concerned primarily with the rescission of the decision of 2 March 1967, which was confirmed on 1 February 1968.

III. The Tribunal notes that disciplinary measures were taken against the Applicant under Staff Rule 110.3. These measures were taken without reference to a Joint Disciplinary Committee. It is clear from Staff Rules 110.1 and 110.3 (b) that such referral is not required in the case of a staff member serving in a field office.

The decision regarding the disciplinary measures was, however, preceded by an investigation. The Respondent decided to apply in this case Rule 110.4, according to which "If a charge of misconduct is made against a staff member, and the Secretary-General so decides, the Staff member may be suspended from duty, with or without pay, pending investigation, the suspension being without prejudice to the rights of the staff member".

In a cable dated 4 January 1967, the Director of Personnel informed the Applicant of his suspension without pay "pending investigation of his failure to comply" with the instructions of the Executive Secretary of the Economic Commission for Africa after express warning from the Director of Personnel. That

was how the misconduct imputed to the Applicant was defined. The Applicant was invited to submit promptly in writing any evidence that he had been misunderstood, as he had alleged in a cable of 30 December 1966 to the Director of Personnel. Moreover, in reply to the Applicant's persistent request to be heard in person, he was informed that a decision could not be taken until the evidence he submitted had been reviewed. Lastly, in accordance with the provisions of Staff Rule 110.4, he was informed that the decision to suspend him had been taken without prejudice to his possible reinstatement or to disciplinary measures to be decided upon by the Secretary-General "if your explanation is not completely satisfactory".

The grounds on which the Director of Personnel had considered it necessary to make an investigation are not mentioned in the decision to dismiss the Applicant of 2 March 1967. This decision merely indicates that a "profound study" has been made. However, the letter from the Acting Director of Personnel dated 1 February 1968, informing the Applicant that the Secretary-General had not accepted the conclusions of the Joint Appeals Board, specifically mentions the "refusal to comply with the transfer order". No other reason is given to justify the disciplinary measures taken.

IV. The Tribunal notes that, according to the Respondent, in the Applicant's case the lack of established disciplinary procedures leaves the Applicant entirely free to take full advantage of the appeals procedures laid down in chapter XI of the Staff Regulations, thus assuring him of due process.

It is of course not for the Tribunal to decide whether, in this case, refusal to comply with the order received could justify the disciplinary measures taken against the Applicant on 2 March 1967. The Tribunal does, however, have the right to ascertain whether a procedure respecting the rights of the defence was followed.

It appears from the file that on 7 January 1967 the Applicant, in a letter addressed to the Director of Personnel, explained the reasons for the position he had taken vis-à-vis the Executive Secretary of the Economic Commission for Africa. The Tribunal recognizes that it was for the Respondent to determine whether this communication met the requirements with regard to an explanation formulated in the cable of 4 January 1967. The Tribunal notes, however, that the Applicant clearly changed his position a month later. This change is revealed in a letter of 6 February 1967 to the United Nations Resident Representative at Kinshasa, in which the Applicant states: "Following the interview which you granted us this morning, I have the honour to confirm my willingness to proceed to Addis Ababa." Moreover, the Applicant adds: "In conclusion, I would request you to inform the proper authorities of the change in my position."

With a view to discovering what action was taken on this document, the Tribunal decided to ask the Respondent the following questions:

"(1) Did the United Nations Resident Representative at Kinshasa receive the Applicant's letter of 6 February 1967, reproduced in annex 10 to the Application?"

"(2) Did the Resident Representative inform 'the proper authorities of the change' in the Applicant's position and of his 'willingness to proceed to Addis Ababa'?"

"(3) If the reply to the first two questions is in the affirmative, what action was taken by the competent authorities in response to the Applicant's letter?"

The Respondent replied to the first two questions in the affirmative. With regard to the third, he gave the following reply:

“The Applicant’s letter of 6 February 1967 was carefully considered by the Respondent. However, by reason of the Applicant’s previous failure to transfer by 1 November 1966 and then by 3 January 1967, there remained, in February 1967, only a little more than four months before the expiry of the Applicant’s appointment, which was too short a period for the transfer previously envisaged having regard to the Organization’s current needs and responsibilities. The Applicant’s offer of 6 February to proceed to Addis Ababa was not therefore, in the Respondent’s submission, a compliance with the previous transfer instruction and did not undo his previous default. In all the circumstances then prevailing, the Respondent concluded that the Applicant’s change of position had come too late to meet the needs of the service or to exculpate him in respect of any of the issues raised in the contested decision.”

V. The Tribunal notes that about three weeks before the Respondent came to a decision concerning the disciplinary measures, he was informed that the Applicant was prepared to comply with his superior’s instructions. The disciplinary measures were nevertheless imposed, and when they were confirmed the only reason given did not take into account the willingness expressed by the Applicant, of which the Respondent had been informed. Everything seems to have taken place as if the Respondent had not been aware of this change in the Applicant’s position, no matter how tardy it may have been.

At the Tribunal’s request, the Respondent explained his behaviour. He admits that the letter of 6 February 1967 was carefully considered but in his view this letter arrived too late for the transfer to Addis Ababa to serve any useful administrative purpose, the Applicant’s consent having come too late to meet the needs of the service. According to the Respondent, the Applicant could not thereby be exculpated in respect of the issues raised in the contested decision.

The Tribunal notes that the foregoing reasons for the Respondent’s behaviour are not given in the decision of 2 March 1967, or in that of 1 February 1968 confirming the previous decision and setting aside the recommendations of the Joint Appeals Board. If the considerations of which the Tribunal was informed pursuant to its request provided the grounds for the disciplinary measures, they do not correspond to the sole reason given officially to the Applicant.

VI. As no information was given at any time about the duties which the Applicant was to perform at Addis Ababa, it is not possible to determine whether the Applicant’s presence would have met the needs of the service on 3 January 1967 but would not have done so a little more than a month later. Moreover, the Tribunal recognizes that it is for the Respondent to make such an appraisal. But if this appraisal leads to the conclusion that it does not serve any useful administrative purpose to transfer an official from Kinshasa to Addis Ababa, such a consideration cannot in itself justify disciplinary action.

If the Respondent considered, on the other hand, that the Applicant’s refusal to leave for Addis Ababa on the dates set justified disciplinary measures, even though the Applicant subsequently agreed to go there, this appraisal came within the Respondent’s competence, but he should have stated that reason when he took the decision with respect to the disciplinary measures after the Applicant had changed his position.

The Tribunal considers that for a disciplinary measure to be valid the reasons for it must be stated with a reasonable degree of precision and with due regard for the facts of the case as evidenced by the file. This requirement is particularly important in the case of a staff member who under the Staff Rules is not assured of the guarantees provided by referral to a Joint Disciplinary Committee.

VII. The Tribunal notes that staff members serving away from Headquarters and the United Nations Office in Geneva do not have the benefit of the Joint Disciplinary Committee procedure, which gives the staff member concerned the opportunity to explain his case. Such a procedure ensures an objective examination of the case and contributes to the formulation of equitable decisions. Whatever the historical reasons which have limited this procedure to Headquarters and the United Nations Office in Geneva may be, it is necessary to establish an equivalent procedure for other staff members, so that all staff are given equal protection.

VIII. In the case under consideration, the only reason given in the contested decisions is not compatible with the content of the Applicant's letter of 6 February 1967, which the Respondent admits he considered carefully. In the circumstances, the Tribunal decides that as the decision of 2 March 1967, which was confirmed on 1 February 1968, does not satisfy the requirements of a procedure respecting the rights of the defence, it is not well founded.

IX. The Tribunal notes that since the Applicant's contract expired on 24 June 1967, it is impossible to order that he be reinstated in his function. An indemnity should therefore be paid to the Applicant in compensation for the injury sustained, in accordance with article 9, paragraph 1, of the Statute of the Tribunal.

The Tribunal notes that under the dismissal decision the Applicant was granted an indemnity based on annex III (b) to the Staff Regulations and an indemnity in lieu of thirty days' notice. It also notes that the contested decision imposed on the Applicant two months' suspension without pay. It notes that the Applicant's remuneration in the Congo at the time of dismissal included certain allowances in addition to his base salary of \$14,330.

The Tribunal further notes that in view of the circumstances of the case, even if it had been possible to reinstate the Applicant in his post it would not have been possible to ensure that he would retain that post until his contract expired.

For the foregoing reasons, the Tribunal decides that the injury sustained by the Applicant shall be compensated by a \$3,000 indemnity.

X. The contested decision is declared to be not well founded. The Respondent shall pay the Applicant the sum of \$3,000.

XI. The rest of the application is rejected.

(Signatures)

R. VENKATARAMAN
President

Suzanne BASTID
Member

Geneva, 23 May 1969

Louis IGNACIO-PINTO
Member
Jean HARDY
Executive Secretary

STATEMENT BY MR. VENKATARAMAN

I have read the English translation of the Judgement and signed the same.