

**Judgement No. 418***(Original: French)***Case No. 428:  
Warner****Against: The Secretary-General  
of the United Nations**

*Request by a staff member of the United Nations for promotion to P-2 level and for compensation for loss of earnings, for grief and for delays in submitting the Respondent's reply.*

*Conclusion of the Joint Appeals Board that there was no obligation of the Administration to promote the Applicant.—Recommendation (a) to pay the Applicant compensation of three months' salary for the way in which her case had been mishandled and (b) to pay her compensation of three months' salary for excessive delays.—Recommendation (a) accepted and recommendation (b) rejected.*

*The Tribunal notes that the Applicant is a model staff member who was not treated by the Administration in a reciprocal manner and was prevented from obtaining a well-deserved promotion.—Consideration of the circumstances of the Applicant's transfer from the Department of Economic and Social Affairs to the Office of Personnel Services.—Finding that there was an agreement whereby the Respondent undertook to upgrade her post or to grant her a promotion to the P-2 level.—The Tribunal's jurisprudence on the conditions for the existence of the Administration's commitments to staff members: Judgements No. 95 (Sikand), No. 134 (Fürst) and No. 342 (Gomez).—The decision to appoint or to promote a staff member to whom commitments have been made is the sole prerogative of the Administration, but failure to carry it out may entail the Administration's responsibility.—While the Tribunal cannot order the Respondent to take action with regard to the Applicant's level, it awards compensation to compensate her for the injury sustained as a result of the Administration's failure to fulfil its obligations.—The compensation awarded also takes into account the long and inadmissible delays in handling the case before the Joint Appeals Board.*

*Award of compensation of \$25,000 as damages.—All other claims rejected.*

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,  
Composed of Mr. Roger Pinto, Vice-President, presiding; Mr. Ahmed  
Osman; Mr. Jerome Ackerman;

Whereas, on 15 April 1987, Yvonne Warner, a staff member of the United  
Nations, filed an application, the pleas of which read as follows:

"II. PLEAS

"7. Mrs. Yvonne Warner, the appellant, seeks promotion to P-2 in accordance with the terms of an agreement, reached in 1978, to which the then Department of Economic and Social Affairs (ESA), the Office of Personnel Services (OPS) and she were the parties. The central question is whether the Office of Personnel Services is under any obligation to take action with a view to having the appellant promoted. The Joint Appeals Board, in its recommendation, concluded that the Administration was not bound to upgrade the applicant's post and to promote her to the P-2 level. The applicant maintains that such obligation exists and respectfully requests the Administrative Tribunal to decide accordingly.

"8. The applicant further requests the Tribunal to decide that:

"(a) The Office of Personnel Services ensure that Mrs. Warner's assignments are at the P-2 level;

"(b) Mrs. Warner's post be reclassified to P-2;

"(c) Mrs. Warner be promoted to P-2 without having to participate in the competitive examination;

"(d) Adequate compensation be given to Mrs. Warner for loss of income resulting from the delay of her promotion for so many years and for the grief and demoralization she has gone through because of this most unfortunate experience in her career. The Tribunal may also wish to take into account the fact that it took the Respondent four years to react to Mrs. Warner's appeal and about ten months to the Board's report. The Applicant considers that the circumstances warrant a compensation of at least six months of her present net base salary (at G-7, step VII)."

Whereas the Respondent filed his answer on 9 November 1987;

Whereas the Applicant filed her written observations on 8 January 1988;

Whereas, on 11 April 1988, the Applicant filed additional documents in which she modified her pleas concerning the amount of compensation and requested compensation equivalent to two years of her present net base salary and \$15,000 because of the delay;

Whereas, on 26 April 1988, the Tribunal put questions to the Respondent;

Whereas, on 4 May 1988, the Respondent provided answers thereto;

Whereas, on 11 May 1988, the Applicant submitted written comments on the Respondent's answer;

Whereas the facts in the case are as follows:

Yvonne Velu Warner entered the service of the United Nations on 12 April 1961. She received a probationary appointment at the G-2 level, step V, and was assigned to the Department of Conference Services as a conference typist. On 1 April 1963, she received a permanent appointment and, on 1 November 1963, she was promoted to the G-3 level. On 1 March 1964, the Applicant was transferred to the Press Services in the Office of Public Information. On 1 May 1966, she was promoted to the G-4 level.

Effective 1 May 1970, the Applicant was transferred to the Department of Economic and Social Affairs, now the Department of International Economic and Social Affairs. At the time, the Department of Economic and Social Affairs had decided to establish a secretarial unit in the Department and needed a supervisor to train staff members assigned to the unit and to establish procedures and working methods. The Applicant was chosen for this post. Her functional title became "Supervisor of the Secretarial Unit" and, on 1 April 1972, she was promoted to the G-5 level. She continued to perform the same

functions, training newly recruited General Service staff, developing the technical and occupational skills of beginners assigned to the Unit and instructing staff of the Service in the conduct of training programmes. From 1974 to 1976, the Applicant supervised 39 trainees.

On 21 September 1976, the Director of the Departmental Administrative and Finance Office of the Department of Economic and Social Affairs wrote to the Director of the Division of Personnel Administration of the Office of Personnel Services (OPS) suggesting the establishment in the Office of Personnel Services of a secretarial training unit to serve the Organization as a whole. The purpose of this proposal—which the two officials had already discussed informally—was to develop the same type of training programme as the Applicant had set up and conducted in the Department of Economic and Social Affairs and “to benefit the Organization as a whole”. He, therefore, proposed that the Unit supervised by the Applicant should be transferred to the Office of Personnel Services. In this regard, he noted:

“If this [proposal] is acceptable to OPS [the Office of Personnel Services], I believe that [the] present supervisor [of the Secretarial Unit of the Department of Economic and Social Affairs], Mrs. Warner, should head-up the Unit; and, as it will be an enlarged function with greater responsibilities, may I further suggest that it be initially established at the P-2 level. I suggest Mrs. Warner because the talent that she brought to the position and the experience she gained in carrying out her functions should not be lost to the Organization.”

In an informal note of 9 March 1977, the Administrative Officer of the Department of Economic and Social Affairs informed the Director and Deputy Director of the Department of what had been said during her informal discussion with the Administrative Officer of the Training and Examinations Service, OPS, concerning the possibility of transferring to the Office of Personnel Services the training programme conducted by the Applicant in the Department of Economic and Social Affairs. The Administrative Officer of the Training and Examinations Service was aware of the proposal put forward by the Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs on 21 September 1976 and was very enthusiastic about it. It seems, however, that at the time the Office of Personnel Services did not have a post available for that purpose. The Administrative Officer of the Department of Economic and Social Affairs suggested to the Director of the Departmental Administration and Finance Office that the Department should offer the Applicant's services, “her post, and even the physical unit to the Training and Examinations Unit [sic] on a loan/trial basis. [The Training and Examinations Service] would undoubtedly give [the Applicant] a variety of assignments and it would give her an opportunity to convince [the Office of Personnel Services] of her P-2 potential”.

The Office of Personnel Services took no steps in this regard.

On 8 September 1977, the Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs again wrote to the Director of the Division of Personnel Administration, OPS, to reiterate his proposal. He noted that the Executive Officer, OPS, had recently called him to say that he was interested in the suggestion that the Applicant be transferred to the Office of Personnel Services but that “the Office of Personnel Services did not have a post which could accommodate Mrs. Warner, if

transferred". The Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs noted in this regard:

"I indicated to him that I would be prepared, if secretarial training was to become Organization-wide, to give up the G-5 post currently on our manning table. I said so, however, with one proviso, namely that the G-5 post would be reclassified by the Office of Personnel Services to the P-2 level, as I could not see Mrs. Warner taking on this broader function at the same level she occupies in this Department where her responsibilities are much more limited."

Although the Executive Officer of the Office of Personnel Services had indicated to him that he would "look into the possibility and would come back to [him]," the Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs had received no further communication from him. He added:

"I continue to believe that my original suggestion has merit and would wish to know whether the Office of Personnel Services continues to entertain the idea of establishing an Organization-wide secretarial training unit and if it is disposed to establishing the level of the supervisory post at P-2."

Since the Director of the Division of Personnel Administration did not reply, the Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs asked him, in another memorandum dated 3 November 1977, whether he was still interested in the proposal which he had transmitted to him in his previous memoranda of 21 September 1976 and 8 September 1977 to establish a secretarial training unit supervised by the Applicant.

The file shows that consultations took place between the two Departments, and nearly a year later, on 29 September 1978, the Director of the Division of Personnel Administration, OPS, asked the Executive Officer of that Office to arrange with the Administrative Officer of the Department of Economic and Social Affairs for the "transfer of Mrs. Warner and her G-5 post to the Training and Examinations Service without delay". On 4 October 1978, the Executive Officer, OPS, asked the Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs to confirm in writing that he had "agreed to the transfer of Mrs. Warner, together with her G-5 post, to the Training and Examinations Service". On 16 October 1978, the Administrative Officer of the Department of International Economic and Social Affairs (DIESA) confirmed to the Executive Officer, OPS, that the Applicant would be "assigned to the Office of Personnel Services, Training and Examinations Service, on a non-reimbursable loan basis for six months, effective 16 October 1978 . . . [pending] budgetary approval" for the transfer of the Applicant and her post to the Office of Personnel Services.

The Administrative Officer, DIESA, signed a personnel action form recording the Applicant's assignment to the Office of Personnel Services as from 16 October 1978. Although the administrative measure was effective for six months, neither Department issued further personnel action forms to extend the Applicant's assignment or transfer her officially to the Office of Personnel Services.

The General Assembly, at its thirty-third session, adopted resolution 33/143 of 20 December 1978, in section I, paragraph 1 (g), of which it requested the Secretary-General to take measures to ensure that movement of staff from

the General Service category to the Professional category was conducted exclusively through competitive methods of selection.

Meanwhile, the Assistant Secretary-General for Personnel Services had written on 1 November 1978 to all heads of departments and offices asking them to submit their recommendations for promotion not later than 31 December 1978 so that the Appointment and Promotion Board and its subsidiary bodies could begin their review of staff for the 1979 promotion registers as soon as possible after the New Year.

The Office of Personnel Services did not recommend the Applicant for promotion to the P-2 level during the 1979 review. Moreover, the file of the case shows that the Office of Personnel Services did not initiate any procedure to reclassify her post.

On 24 April 1980, the Applicant wrote to the Chief of the Training and Examinations Service, OPS, to request a post allowance at the P-2 level. The Applicant recalled the circumstances in which she had been transferred to the Office of Personnel Services and noted that she had been working for more than 18 months for that Office "with no indication that the reclassification of [her] post [was] imminent". Moreover, she had "undertaken duties clearly of a professional nature and additional to those of [her] post at the time of [her] reassignment". She summarized the main tasks she had performed since joining the Office of Personnel Services and stated that if her request was refused, she would feel compelled to request a transfer to another office, where she might at least have a chance to compete for promotion.

In a reply dated 3 June 1980, the Chief of the Training and Examinations Service, OPS, listed the reasons why that Office could not grant the Applicant's request, namely: (i) that there was no Professional post to which the Applicant could be assigned and that it was unlikely that such a post would be made available; (ii) that since the introduction of the competitive examination, movement from the General Service category to the Professional category had become solely contingent upon success in that examination; and (iii) that at the time of the Applicant's assignment, the Office of Personnel Services had made it clear to her former Department that the Office could not envisage any possibility of her advancement to the Professional category, since "the inclusion of a suitable post in [the] staffing table [of the Office of Personnel Services] was not foreseen".

In a memorandum of 8 August 1980, the Applicant appealed to the President of the Central Examination Board to exempt her from the examination in accordance with the provisions of Information Circular ST/IC/80/47. On 25 November 1980, the President of the Central Examination Board informed the Applicant that the Board could not recommend that she be promoted without taking the competitive examination.

This being the case, the Applicant sought to rejoin her former department, the Department of International Economic and Social Affairs. On 25 February 1981, she met with the Assistant Secretary-General, OPS, and informed him that the Executive Officer, DIESA, was prepared to accept her in that Department provided that her post, which had been lent to the Office of Personnel Services, was returned to the Department of International Economic and Social Affairs. She then recorded what had been said at this meeting in a memorandum dated 2 March 1981 addressed to the Assistant Secretary-General. She also expressed the hope that her administrative situation could be

positively resolved, since she wished to return to the Department of International Economic and Social Affairs in the immediate future.

Mr. Hocine Médili, then Executive Officer, OPS, in a memorandum dated 7 April 1981 addressed to the Director of the Division of Personnel Administration, OPS, summarized the administrative arrangements between the Office of Personnel Services and the Department of International Economic and Social Affairs to transfer the Applicant with her post to the Office of Personnel Services. He explained that these arrangements "aimed at expanding the small Secretarial Training Programme of ESA [the Department of Economic and Social Affairs] to the whole Secretariat under the auspices of the Office of Personnel Services". When the Department of Economic and Social Affairs had been restructured, it had asked the Office of Personnel Services to return the Applicant's post or at least give it a post in exchange for the G-5 post. The Office of Personnel Services had resisted that proposal on the grounds that such a move would jeopardize the Secretarial Training Programme for the whole Secretariat. Subsequently, in the course of preparing its 1982-1983 budget, the Department of International Economic and Social Affairs had "dropped the G-5 post from its establishment to become part of the authorized staffing table of the Training and Examinations Service". With regard to the Applicant's transfer, the Executive Officer stated:

"Ms. Warner's transfer can only be implemented if a G-5 post is made available by a receiving office to accommodate her transfer. OPS [the Office of Personnel Services] cannot suppress a whole programme of training for the sole purpose of effecting Ms. Warner's transfer."

Moreover, he recognized that:

"... when she transferred to OPS [the Office of Personnel Services], ESA [the Department of Economic and Social Affairs] agreed to give up a G-5 post on the understanding that OPS would take appropriate action to upgrade the post to P-2 and promote Ms. Warner to that level. The post was never upgraded to P-2."

The Executive Officer also acknowledged that the Applicant had worked under "trying conditions", since her promotion had now become subject to success in the competitive examination, and since she did not have adequate office space to accommodate a training room. He concluded by expressing the hope that the Applicant would "reconsider her position [on a transfer to the Department of International Economic and Social Affairs] and continue her outstanding contribution to the work of TES [the Training and Examinations Service]".

On 13 July 1981, the Applicant requested the Secretary-General to review the administrative decision not to reclassify her post and not to promote her to the P-2 level. On 31 August 1981, having received no reply, she lodged an appeal with the Joint Appeals Board.

The Board adopted its report on 25 March 1986. Its conclusions and recommendations read as follows:

*"Conclusions and recommendations"*

"43. The Panel found that there may have been an informal agreement obliging Mr. Webb to take steps to have the appellant's G-5 post reclassified to P-2 and to have her promoted to that level but that, if there was such an informal agreement it was not binding on OPS [the Office of Personnel Services]. The Panel further found that, even if there had been an agreement creating obligations for OPS and DIESEA [the Department of

International Economic and Social Affairs], it could not have resulted in commitments extending beyond those offices. The Panel therefore concluded that the Administration was not bound to upgrade the appellant's post and to promote her to the P-2 level.

"44. The Panel concluded (a) that OPS and DIESA had mishandled the appellant's case in such a manner as to entitle her to compensation and that such compensation should be equal to three months net base salary and (b) that the Respondent had excessively delayed his reply to the appellant's appeal and that the appellant should receive compensation on that account, also in an amount equal to three months net base salary.

"45. The Panel therefore recommends that the appellant be paid a sum equal to six months of her net base salary."

On 19 January 1987, the Assistant Secretary-General for Human Resources Management\* informed the Applicant that the Secretary-General had decided:

"(a) To maintain the contested decision,

"(b) To grant you, considering the entire circumstances of your case and in an attempt to settle it, three months of your present net base salary, and

"(c) To take no further action on your case.

"The Secretary-General did not accept the Panel's second recommendation in paragraph 44(b) of the report for the granting of another three months' net base salary for delay in submission of the Respondent's reply. The Secretary-General's decision not to accept this recommendation was based on his conclusion that the delay in the Respondent's reply cannot be regarded as having caused any loss to you."

On 15 April 1987, the Applicant filed with the Tribunal the application referred to above.

Whereas the Applicant's principal contentions are:

1. A tripartite agreement existed between the Applicant, the Office of Personnel Services and the Department of Economic and Social Affairs pursuant to which the Department of Economic and Social Affairs made the services of the Applicant and her G-5 post available to the Office of Personnel Services, which undertook to upgrade the post to P-2 and recommend the Applicant for promotion. The Office of Personnel Services did not honour this agreement.

2. The Applicant was legitimately led to believe that she would be promoted to P-2. Although it was a verbal agreement, the principles of good faith and due process require that this agreement be honoured.

3. The obligation to promote the Applicant existed before the introduction of competitive examinations. Since other staff members have been exempted from the examination, the Applicant should be treated in a similar manner.

Whereas the Respondent's principal contentions are:

1. The Applicant has failed to establish the existence of an agreement whereby the Respondent is committed to upgrade the classification of her post or to promote her to the P-2 level.

2. The upgrading of the classification of posts and the promotion of staff are separate and unrelated administrative measures, carried out in accordance with

\*Successor of OPS.

the relevant Staff Rules and related Secretariat issuances applicable to all Secretariat units.

The Tribunal, having deliberated from 27 April 1988 to 25 May 1988, now pronounces the following judgement:

I. The Applicant entered the service of the United Nations in 1961, nearly 30 years ago, as a staff member in the General Service category. She has now reached level G-7, step VII. She is considered by all her supervisors to be an outstanding staff member. From her file the Tribunal can see that she is a model staff member who can be held up as an example to all her colleagues. She is a credit to the United Nations.

II. Unfortunately, the Administration has not treated the Applicant in a reciprocal manner, for reasons which are not readily apparent to the Tribunal. Following her assignment to the Office of Personnel Services in October 1978, the Applicant was not only exploited in her work but unjustly prevented from obtaining the well-deserved promotion to the Professional category that she had been led to expect.

III. The transfer of the Applicant took place in the following circumstances, which are not subject to any disagreement between the parties.

IV. From 1970, the Applicant was assigned to the Department of Economic and Social Affairs, now the Department of International Economic and Social Affairs. She was responsible for organizing and supervising a training unit for newly recruited General Service staff, for developing their technical and occupational skills, for establishing procedures and working methods and, lastly, for instructing staff in the conduct of the training programmes which the Applicant had set up.

V. The Applicant fully succeeded in carrying out this task, which required a great deal of initiative, considerable effort and unflinching devotion.

VI. No such training unit existed for the United Nations Secretariat as a whole, and there was a need for one. In 1976 the Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs, in the general interest of the Organization, took the judicious initiative of proposing in writing to the Director of the Division of Personnel Administration of the Office of Personnel Services that a secretarial training unit should be established in that Office to perform the same tasks as the existing unit in the Department of Economic and Social Affairs. These two senior officials had already discussed this proposal informally. It was envisaged to transfer the unit supervised by the Applicant to the Office of Personnel Services. The Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs wrote at that time: "I suggest Mrs. Warner [the Applicant] because the talent that she brought to the position and the experience she gained in carrying out her functions should not be lost to the Organization."

VII. In his Periodic Evaluation Report on the Applicant as supervisor of the Secretarial Training Unit [12 May 1977], the Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs confirmed his proposals, stating that he had "recommended to the Office of Personnel Services that the Applicant should perform this function on a Secretariat-wide basis and at the Professional grade level".

VIII. In September 1977 the same Director noted that he could not approve the transfer of Mrs. Warner to the Office of Personnel Services unless the Office was "disposed to establishing the level of the supervisory post at P-2."



IX. It is not contested that the Applicant received copies of the correspondence exchanged between the Director of the Departmental Administration and Finance Office of the Department of Economic and Social Affairs and the Director of the Division of Personnel Administration of the Office of Personnel Services. She was informed of the condition imposed on her transfer to the Office of Personnel Services, namely, her promotion to the Professional category.

X. The Tribunal notes at this point that on 7 April 1981, in a memorandum addressed to the Director of the Division of Personnel Administration of the Office of Personnel Services, the Executive Officer of that Office recalled that the Applicant "... when she transferred to OPS [the Office of Personnel Services], ESA [the Department of Economic and Social Affairs] agreed to give up a G-5 post on the understanding that OPS would take appropriate action to upgrade the post to P-2 and promote Mrs. Warner to that level. The post was never upgraded to P-2." The testimony of this official, Mr. Hocine Médili, is particularly significant because he was attached to the Office of Personnel Services at the time when these dealings took place.

XI. After numerous communications and exchanges of notes, an agreement between the Department of International Economic and Social Affairs and the Office of Personnel Services was finally reached in October 1978. The Tribunal notes many gaps, errors and delays in the conditions in which this transfer was carried out. Discussions took place between the two offices in question, of which no written records remain. A simple personnel action form was used to assign the Applicant to her new office. This assignment was limited to a period of six months. No action to extend it was taken on the date it expired. The Tribunal underlines the important fact that on that date the Office of Personnel Services did not offer the Applicant the possibility of returning to her former office, as she was entitled to do since the Office of Personnel Services had not secured her promised promotion. Moreover, no official decision to transfer the Applicant to the Office of Personnel Services was ever taken.

XII. It was not until 12 March 1982, that an official decision to transfer the Applicant to the Office of Personnel Services, effective 1 January 1982, was taken. In fact, the Applicant had performed her duties in the Office of Personnel Services since 16 October 1978, i.e., for 41 months.

XIII. This confused situation, resulting from the Administration's own actions, is all the more unfortunate because it permitted the Applicant and the Respondent to draw opposing inferences from it.

XIV. The Respondent holds that the Applicant has not established the existence of an agreement whereby the Respondent undertook to upgrade her post or grant her a promotion to the P-2 level. The Tribunal disagrees with this view.

XV. The Tribunal notes the insistence with which the Director of the Departmental Administration and Finance Office of the Department of International Economic and Social Affairs imposed her promotion to the P-2 level as a condition for transferring the Applicant to the Office of Personnel Services. When the Director of the Division of Personnel Administration, OPS, accepted this transfer, after careful consideration, he implicitly accepted this condition, which was never revoked. The Office of Personnel Services was not able to produce any records of their discussions showing that the condition had been set aside at the last minute. The confusion attending the transfer

procedure, recalled above by the Tribunal, cannot be invoked by the Respondent to support his own interpretation.

XVI. Furthermore, the Executive Officer, OPS, who, as the Tribunal noted in paragraph X above, was fully aware of the events as they occurred at the time, formally recognized in the above-mentioned memorandum of 7 April 1981 the existence of this condition imposed by the Department of International Economic and Social Affairs and the promise made by the Office of Personnel Services. This testimony confirms and clarifies, where needed, the confused statements on certain points made by Mr. Goodkind, then Director of the Departmental Administration and Finance Office of the Department of International Economic and Social Affairs, and by Mr. Webb, then Director of the Division of Personnel Administration, before the Joint Appeals Board.

XVII. The Tribunal in its jurisprudence has on a number of occasions—most recently in its Judgement No. 342 (*Gomez* (1980), paragraph V)—defined the conditions for the existence of the Administration's commitments to staff members and their scope.

XVIII. As early as 1965, in the *Sikand* case (Judgement No. 95, paragraph III), the Tribunal noted:

"The Tribunal in its jurisprudence has established that the terms and conditions of employment of a staff member with the United Nations may be expressed or implied and may be gathered from correspondence and surrounding facts and circumstances."

XIX. In 1969, in the *Fürst* case (Judgement No. 134, paragraph III), the Tribunal stated the following:

"Appointments and promotions are within the discretion of the Secretary-General and, unless there is a legal obligation binding on the Secretary-General, the Tribunal cannot enter into the merits of the same."

XX. Such commitments become null and void if the staff member to whom they were made does not meet the legitimate expectations of the Administration. In this case, however, the Applicant did not fall short of these expectations. She set up the new unit as planned, and supervised it in a way deemed excellent by all those called upon to evaluate it.

XXI. The decision to appoint or promote a staff member to whom commitments have been made is the sole prerogative of the Administration. If this decision is not taken, however, the attendant circumstances may well entail the responsibility of the Administration.

XXII. In the present case, the Tribunal observes that the Administration failed to grant the Applicant the benefit of the transitional measures envisaged at the time of the establishment of a competitive examination as the only means of moving from the General Service category to the Professional category. Despite its commitments, the Administration did not recommend the Applicant for a promotion to the P-2 level at the time of the 1979 promotion review.

XXIII. Despite the outstanding services rendered by the Applicant, the Administration took no concrete steps to initiate any procedure whatsoever, in accordance with established rules, to make it possible to promote the Applicant. It did not make all the efforts which the Department of International Economic and Social Affairs and the Applicant were entitled to expect following the Applicant's transfer to the Office of Personnel Services.

XXIV. In these circumstances, the Tribunal feels that the responsibility of the Administration is entailed and that it should compensate for injury sustained by the Applicant.

XXV. On the other hand, the Tribunal cannot order the Respondent to ensure that the Applicant's assignments are at the P-2 level, nor decide that her post should be reclassified to the P-2 level or that she should be promoted to the P-2 level without having to participate in a competitive examination. On these points it will therefore reject the pleas of the Applicant.

XXVI. The compensation awarded by the Tribunal is designed to compensate for the injury sustained by the Applicant as a result of the Administration's failure to fulfil its obligations.

XXVII. In determining the amount of this compensation, the Tribunal is also taking into account the long and inadmissible delays on the part of the Administration in replying to the Applicant's appeal to the Joint Appeals Board (four years) and in taking its decision on the report of that Board (nearly one year).

XXVIII. To compensate for all these injuries, the Tribunal will award the Applicant an amount of \$US 25,000.

XXIX. For the foregoing reasons, the Tribunal decides that:

1. The Respondent shall pay the Applicant a sum of \$US 25,000 as damages.
2. All other pleas of the Applicant are rejected.

*(Signatures)*

Roger PINTO  
*Vice-President, presiding*

Ahmed OSMAN  
*Member*

*Geneva, 25 May 1988*

Jerome ACKERMAN  
*Member*

R. Maria VICIEN-MILBURN  
*Executive Secretary*