

EIGHTY-FIRST SESSION

***In re* SIMON (No. 2)**

(Application for interpretation and review)

Judgment 1505

THE ADMINISTRATIVE TRIBUNAL,

Considering the application filed by Mrs. Françoise Danielle Simon on 22 May 1995 for the interpretation and review of Judgment 1406, the reply of 25 August from the World Health Organization (WHO), the complainant's letter of 26 September informing the Registrar of the Tribunal that she did not wish to rejoin, the WHO's further brief of 13 November and the complainant's comments thereon of 4 December 1995;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written submissions;

CONSIDERATIONS:

1. The World Health Organization declined to renew the complainant's appointment. In Judgment 1406 of 1 February 1995 the Tribunal awarded her damages in the amount of three months' pay reckoned on the basis of the emoluments she would have got from 1 October to 31 December 1993. That amount was stated to be "over and above the amounts already granted to her by the Director-General", namely what she would have earned from 1 July to 30 September 1993 and 1,000 United States dollars in moral damages. The Tribunal also awarded her "interest at the rate of 10 per cent a year from the date at which each monthly payment would have fallen due".
2. On 31 March 1995 the WHO accordingly paid her 70,190.97 Swiss francs. That total was made up of the sums originally offered by the Director-General in compensation, the further sum awarded by the Tribunal, plus interest, and the awards of moral damages and costs. On 8 September 1995 the Director of the Personnel Division informed her that he had ordered payment to her of 3,361.64 Swiss francs by way of interest on the Director-General's grant of compensation as reckoned from 4 February 1994, the date of his decision, to 31 March 1995.
3. Being dissatisfied, on 22 May 1995 the complainant filed this application for the interpretation and, sub-sidiarily, review of Judgment 1406. Her application is about the reckoning of interest on the amount of compensation the Director-General had granted her before the judgment.
4. In her submission the judgment means that the interest is to be reckoned at 10 per cent a year as from each month on the full amount due, i.e. including the sum equivalent to what she would have earned from 1 July to 30 September 1993; failing that, the Tribunal must - she argues - have wrongly assumed that the WHO had already paid her the amount originally promised, and such mistake of fact warrants review. For the reasons set out below both her pleas fail.
5. Judgment 1406 leaves no room for doubt: the sum to bear interest at 10 per cent a year is the amount that the Tribunal awarded in damages, and no other. So the WHO executed the judgment correctly in paying 3,835.44 francs as interest on the sums she would have earned from 1 October to 31 December 1993.
6. The Tribunal did not err in not ordering the Organization to pay interest on sums it had agreed to pay by a decision which the judgment merely recorded. Besides, the WHO did pay her the interest customarily due from 4 February 1994, the date of that decision, until 31 March 1995, the date at which it paid the promised amount. Having ruled on grounds of equity, the Tribunal sees no grounds in any of the circumstances set out above for review of its judgment.
7. The complainant's claim to costs is therefore disallowed as well.

DECISION:

For the above reasons,

The application is dismissed.

In witness of this judgment Mr. Michel Gentot, Vice-President of the Tribunal, Miss Mella Carroll, Judge, and Mr. Jean-François Egli, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 11 July 1996.

(Signed)

Michel Gentot
Mella Carroll
Egli
A.B. Gardner