

## EIGHTY FIRST SESSION

### ***In re* WASSEF (No. 13)**

#### **Judgment 1533**

THE ADMINISTRATIVE TRIBUNAL,

Considering the thirteenth complaint filed by Mr. Maher Nabih Wassef-Gerges against the Food and Agriculture Organization of the United Nations (FAO) on 26 July 1995, the FAO's reply of 31 October, the complainant's rejoinder of 29 November 1995 and the Organization's surrejoinder of 1 March 1996;

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

Having examined the written submissions and decided not to order hearings, which neither party has applied for;

Considering that the facts of the case and the pleadings may be summed up as follows:

A. Facts relevant to this dispute appear under A in Judgment 1453, which dismissed Mr. Wassef's fourth complaint.

On 6 April 1994 he filed an appeal with the Director-General claiming 8,000,001 United States dollars for the "libel and defamation" he saw in a letter of 8 March 1994 from the Director of the Division of Personnel. In that letter the Director denied the complainant's contention that on 5 October 1992 the Assistant Director of the Division of Administrative Services had orally offered him transfer under a continuing appointment to a grade P.4 post at headquarters.

By a letter of 3 May the Assistant Director-General told the complainant that his appeal was rejected on the grounds that the remarks by the Director of Personnel had not been libellous. On 11 May the complainant went to the Appeals Board. In a report dated 15 April 1995 the Board held that neither in letter nor in spirit had the Director's comments been libellous and it recommended rejecting the appeal. The Director-General endorsed the Board's recommendation in a letter of 12 June 1995, which the complainant is impugning.

B. The complainant submits that the libellous intent of the letter of 8 March is plain from the Director of Personnel's absence from the meeting of 5 October 1992. By confirming the letter on the Director-General's behalf the Assistant Director-General for Administration and Finance too was guilty of the libel.

Citing an FAO document headed "Standards of conduct of the international civil service", the complainant contends that strict observance of those standards required an apology from the Director of Personnel. The Director's comments are parcel of the psychological and mental warfare the Organization is waging against staff who dare assert their right of appeal.

He wants the Tribunal to grant him \$8,000,001 in damages for libel. He claims reimbursement of the costs of publishing the Tribunal's judgment in four daily newspapers in America, four in Europe and four in Arab countries. He seeks the application of a penalty clause should the Organization fail to execute the Tribunal's decision within thirty days. He claims \$6,000 in costs.

C. In its reply the FAO submits that the complaint is devoid of merit. How could there be libel when the Director's remarks were not disclosed to a third party? What the complainant is objecting to is a confidential letter that was sent to him and to no-one else. And it did not accuse him of anything; it was a straightforward statement of fact. Besides, by taking nearly a year after the interview of 5 October 1992 to raise the matter he acknowledged that there had been no offer of a post.

D. In his rejoinder the complainant points out that several officials got hold of copies of the supposedly "confidential" letter sent on 6 October 1992 by the Assistant Director-General. So even if the letter of 8 March 1994 had been marked confidential - and it was not - it was still libellous. He wants the Tribunal "not to hesitate" to

raise its award of damages for breach of a duty "inherent in international loyalty to the whole United Nations family of organizations".

E. In its surrejoinder the FAO maintains that he got an offer of a new appointment neither at the meeting of 5 October 1992 nor at any other time. There was nothing offensive about the letter of 8 March 1994; nor was it any breach of confidence for others to get copies of the letter of 6 October 1992.

#### CONSIDERATIONS:

1. This dispute arises out of a meeting between the complainant and the Assistant Director of the Administrative Services Division. Though it is common ground that the meeting was in Rome on 5 October 1992, the parties differ over what was said, no-one else having been present. The complainant says that the Assistant Director promised him a continuing appointment on a P.4 post at headquarters and that he accepted.

2. There is no evidence before the Tribunal that he was ever made any such promise. On 6 October the Assistant Director sent him a letter summing up their talk. It began: "Yesterday morning, I had the possibility to discuss the matter with you in broad terms and what I write will be, to some extent, a repetition of what I said". The "matter" he referred to arose over a letter the complainant had sent to an official in the Division of Administrative Services. That letter, in the complainant's submission, was strictly personal and made no claims. In fact there is nothing in the Assistant Director's letter to suggest that they had discussed any offer of employment; nor did that letter prompt any comment from the complainant at the time. Not until 14 September 1993, almost a year later, did he first mention in writing - in a "personal" letter to someone else, with the grade of director - the meeting of 5 October 1992 and the alleged promise.

3. By a letter of 30 November 1993 to the Director of the Division of Administrative Services he claimed a continuing appointment on a P.4 post at headquarters in keeping with the promise he said the Assistant Director had made him 14 months earlier. The Director of the Division of Personnel answered him in a letter of 8 March 1994.

"... the Assistant Director ... never offered any such transfer to you and would not have had the authority to bind the Organization in this regard in any case".

On 6 April 1994 the complainant appealed to the Director-General seeking compensation in the amount of 8,000,001 United States dollars for the libel he saw in the letter of 8 March.

4. There is no libel in the letter. Indeed the wording is perfectly suited to the purpose it was intended to serve. The complainant's claims therefore fail in their entirety.

5. Both the want of evidence to support the complainant's allegations and the absurdity of his claims show his complaint to be trifling and an abuse of process.

#### DECISION:

For the above reasons,

The complaint is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Miss Mella Carroll, Judge, and Mr. Julio Barberis, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 11 July 1996.

(Signed)

William Douglas  
Mella Carroll  
Julio Barberis  
A.B. Gardner

