

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

V.
v.
PAHO

121st Session

Judgment No. 3589

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint filed by Mr L. M. V. against the Pan American Health Organization (PAHO) (World Health Organization) on 10 January 2013 and corrected on 1 April, PAHO's reply of 25 November 2013, the complainant's rejoinder of 6 March 2014 and PAHO's surrejoinder of 18 June 2014;

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

Having examined the written submissions and decided not to hold oral proceedings, for which neither party has applied;

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

The complainant impugns PAHO's rejection of his request for reclassification of his post at the P.4 level.

The complainant joined PAHO in 1990 as a Personnel Assistant at level G.4 in Human Resources Management (HRM). He was promoted to the G.5 level in 1992 and to the G.6 level in 1993. In August 2000 he was appointed to the post of Systems Administrator in the Procurement Services Unit (Post .6180) at the P.2 level. This post was subsequently reclassified at the P.3 level with retroactive effect from 1 April 2003.

On 10 March 2009 the complainant submitted a request for a re-examination of the classification of his post. On 14 May the HRM

Classification Team asked the complainant to provide information about the functions and responsibilities of his post by completing a questionnaire. The complainant provided the requested information and on 5 June the HRM Classification Team met with him to conduct a desk audit. It then prepared a desk audit report containing a list of the functions and responsibilities assigned to Post .6180. This report was forwarded to the complainant as well as his first and second-level supervisors, both of whom confirmed its accuracy. Following its analysis by the HRM Classification Team, the desk audit report was submitted to the Director of PAHO with the recommendation that the classification of the complainant's post be retained at the P.3 level. The Director decided to endorse this recommendation and the complainant was so informed by a letter of 13 January 2010.

On 1 March 2010 the complainant wrote to the HRM Area Manager, requesting a review of the 13 January decision. He was soon after informed that the Professional Reclassification Review Panel (PRRP) would be convened to examine his case. On 13 April, further to his request, he met with officials in HRM to obtain clarification on the classification standards used to classify his post. The PRRP met on 11 May to deliberate on the complainant's request and on 13 May it issued its report. It concluded that all relevant facts had been taken into account and that established procedures had been followed in the analysis of the post description, and it unanimously recommended that the grade of Post .6180 be retained at the P.3 level. The Director decided to approve this recommendation and by a letter of 26 August 2010 the complainant was informed accordingly. On 23 September he wrote to the HRM Area Manager noting that none of the issues which he had raised originally had been addressed by the PRRP. In a letter of 12 October 2010, the HRM Area Manager confirmed the Director's decision to retain the complainant's post at the P.3 level.

On 18 October 2010 the complainant filed a statement of intent to appeal against the decision of 12 October 2010. He subsequently explained that he was also appealing against the decision of 26 August 2010. He filed his formal statement of appeal on 9 November 2010 alleging incomplete consideration of the facts and failure to apply

correctly the relevant provisions. On 24 November 2010 he filed a supplementary statement of appeal. Following a hearing held in June 2012, the Board of Appeal (BoA) issued its report on 21 August 2012. It found that the Director's decision to maintain the complainant's post at the P.3 level was a valid exercise of her administrative discretion and that it was not tainted with any procedural flaws. It thus recommended the rejection of the appeal. By a decision of 23 October 2012, the Director notified the complainant of her decision to endorse the BoA's recommendation. That is the impugned decision.

The complainant asks the Tribunal to quash the impugned decision and to order the reclassification of his post at the P.4 level. He also claims moral damages.

PAHO invites the Tribunal to dismiss the complaint in its entirety.

CONSIDERATIONS

1. The complainant commenced working with the Pan American Health Organisation (PAHO) in August 1990. In March 2009 the complainant held the position of Systems Administrator in the Procurement Services Unit, Post .6180, which was graded at the P.3 level. On 10 March 2009 the complainant requested a review of the post with a view to having it reclassified. The complainant intended using, as a comparator, Post .0231, a Financial Systems Advisor post in the Financial Resources Management, which was graded at the P.4 level. Thereafter, the complainant completed a questionnaire concerning the functions and responsibilities of his post and met with the Human Resources Management (HRM) Classification Team undertaking a desk audit of the position. Ultimately an audit report was prepared. The accuracy of the report had earlier been agreed to by the complainant, his first level supervisor and his second level supervisor. In due course the Director of PAHO received a memorandum from the HRM Advisor recommending that Post .6180 remain classified at the P.3 level. On 14 December 2009 the Director decided that the post should remain classified at the P.3 level and this decision was communicated to the complainant on 13 January 2010.

On 1 March 2010 the complainant requested a review of this decision. This led to an examination of the Director's decision by the Professional Reclassification Review Panel (PRRP). Ultimately the members of the PRRP concluded that they were satisfied that all relevant facts had been taken into account and that established procedures had been followed. They confirmed to the Director that the complainant's post was properly classified at the P.3 level. By letter dated 26 August 2010 the complainant was informed that the Director had confirmed her original decision.

2. In September and October 2010 correspondence passed between the complainant and the HRM Area Manager about the complainant's unsuccessful attempts to have his post reclassified. On 18 October 2010 the complainant took the formal step of filing a statement of intent to appeal against the decision not to reclassify his post at the P.4 level with the Secretary of the Board of Appeal (BoA) who, in due course, advised him that he had to file a formal statement of appeal by 11 November 2010. The complainant did so on 9 November 2010 and requested an oral hearing. The Administration responded in writing to the complainant's statement of appeal on 27 December 2010. An oral hearing was initially scheduled to take place in the week commencing 25 July 2011 but ultimately did not take place until 5 June 2012. The BoA reported to the Director on 21 August 2012 recommending, in effect, that the decision not to reclassify the position should be confirmed. The Director wrote to the complainant on 23 October 2012, indicating that she adhered to the view that the post was appropriately graded at the P.3 level. This is the impugned decision.

3. The complainant identifies four grounds of appeal in his brief. The first is that there had been a failure to observe or apply correctly the provisions of the relevant Staff Rules and Regulations and particularly the requirement that positions of approximately equal difficulty and responsibility should be placed in the same grade. The second ground is that there had been an incomplete consideration of the facts. The third ground is that the BoA had failed to consider the

facts. The last ground is that there had been a failure by PAHO to follow its own time limits on the process of internal appeal.

4. PAHO contests each of these contentions though it acknowledges that the internal appeal process had been delayed. In its reply PAHO identifies, correctly, the limited role of the Tribunal in dealing with complaints concerning the classification of a post. It is well established that the grounds for reviewing the classification of a post are limited and ordinarily a classification decision would only be set aside if it was taken without authority, had been made in breach of the rules of form or procedure, was based on an error of fact or law, was made having overlooked an essential fact, was tainted with abuse of authority or if a truly mistaken conclusion had been drawn from the facts (see, for example, Judgments 1647, consideration 7, and 1067, consideration 2). This is because the classification of posts involves the exercise of value judgements as to the nature and extent of the duties and responsibilities of the posts and it is not the Tribunal's role to undertake this process of evaluation (see, for example, Judgment 3294, consideration 8). The grading of posts is a matter within the discretion of the executive head of the organisation (or the person acting on her or his behalf) (see, for example, Judgment 3082, consideration 20).

PAHO also sets out in its reply the applicable provisions of its Staff Rules and Regulations and procedures. The complainant does not dispute, in his rejoinder, that they are the applicable provisions. PAHO details, in its reply, how it believes the HRM Classification Team had followed those procedures, had considered all relevant facts, and similarly how it believes the PRRP had correctly concluded that all procedures had been followed and that all relevant factors had been taken into consideration. It also details how it believes the BoA had considered all relevant facts. It concludes by arguing that no case has been made out that would warrant the intervention by the Tribunal consistent with its limited role established by its jurisprudence in dealing with complaints concerning classification.

5. In his rejoinder, the complainant does not identify any failure of the classification process or the subsequent review and

internal appeal that demonstrates a flaw in the process which would justify the Tribunal quashing the impugned decision. Much of the complainant's legal argument addresses how he believes the HRM Classification Team erred in its approach. For example the complainant challenges the basis upon which the HRM Classification Team rejected the suitability of the comparator post (Post .0231) he had advanced in support of the reclassification of his post. But issues such as these are the essence of the discretionary evaluation undertaken in the process of classifying or reclassifying a post. They are not issues with which the Tribunal engages unless there is some manifest error of substance in that process of evaluation.

6. One matter of detail should be noted. The delay in the internal appeal process was lengthy. This is conceded by PAHO. The Tribunal may award moral damages in circumstances where an internal appeal has taken an excessively long period. However the complainant does not seek moral damages for this delay by way of relief.

7. The complainant has not established any reviewable error or failure in the process leading to the impugned decision. Accordingly, the complaint should be dismissed.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment, adopted on 22 October 2015, Mr Giuseppe Barbagallo, Vice-President of the Tribunal, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 3 February 2016.

GIUSEPPE BARBAGALLO

MICHAEL F. MOORE

HUGH A. RAWLINS

DRAŽEN PETROVIĆ