



Administrative Tribunal

Distr.
LIMITED

T/DEC/752

16 July 1996

ENGLISH

ORIGINAL: FRENCH

ADMINISTRATIVE TRIBUNAL

Judgement No. 752

Case No. 703: Bakr et al.

Against: The Commissioner-General
of the United Nations
Relief and Works Agency
for Palestine Refugees
in the Near East

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Samar Sen, President; Mr. Hubert Thierry, Vice-President; Mr. Francis Spain;

Whereas, on 14 November 1994, Daoud Nehar Bakr, Mohammad Nayef Abbas,

Eilan Mahmoud Mi'ari, Khaled Ahmad Yasin, Hassan Abdulla Al Sha'bi and Mahmoud Mohammed Said Tamim, former staff members of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter referred to as UNRWA or the Agency), filed an application in which they requested under article 12 of the Statute of the Tribunal a revision of Judgement No. 650 rendered in their case on 20 July 1994;

Whereas the pleas of the application read, in part, as follows:

" ...

3. The order of the Tribunal to allow nine months for reinstating the Applicants shall have the difficulty of the non-availability of vacancies at the present [and should be extended], on the understanding that vacancies could be available only at the inception of the school year to come, i.e., 1-15 September 1995. ...

4. Compensation for non-reinstatement extended to 12 months range[d] between US\$ 2,500-3,000, whereby the termination indemnity they lost, and Respondent acquired without cause, ranged between 21-31 years of service.

..."

Whereas, on 4 January 1995, the Applicants submitted an additional statement;

Whereas the Respondent filed his answer on 19 January 1995;

Whereas, on 19 July and 14 October 1995, the Applicants submitted additional information;

Whereas, on 8 January 1996, the Respondent filed an additional document;

Whereas the facts in the case were set out in Judgement No. 650;

Whereas the Applicants' principal contentions are:

1. Paragraph XXI of the judgement of the Tribunal should be amended to take account of the existing practical modalities for giving effect to the judgement.
2. The Respondent, by not paying the termination indemnities to which some of the Applicants were entitled, acquired the indemnities without cause.

Whereas the Respondent's principal contentions are:

1. The Applicants have not identified any fact of which the Tribunal was not aware at the time it rendered its judgement, much less a fact "of a decisive nature".
2. The Applicants did not raise their request for payment of termination indemnities in their original application.
3. The Applicants' claim for termination indemnities fails on its face, as the Applicants each resigned from the Agency's service and, under the applicable rules, staff members who resign from the

Agency's service are not entitled to a termination indemnity.

The Tribunal, having deliberated from 2 to 16 July 1996, now pronounces the following judgement:

I. The Applicants' claim is based on article 12 of the Statute of the Tribunal, which provides that revision of a judgement may be requested "on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision".

No new fact has been identified by the Applicants for the purposes of their claim for revision of Judgement No. 650 of 20 July 1994.

II. The Tribunal notes in this regard that the fact that the 1994-1995 school year began in the UNRWA schools in Syria before the Applicants became aware of Judgement No. 650 of 20 July 1994 does not constitute a "new fact" within the meaning of article 12 of the Statute of the Tribunal.

III. A claim for revision of a judgement of the Tribunal may not be used to introduce a new claim other than the one raised in the application that gave rise to the judgement which is the subject of the request for revision. That is the situation in the present case, in which the Applicants raise a claim for the payment of termination indemnities which did not appear in their original application.

IV. For these reasons, the application is rejected.

(Signatures)

Samar SEN
President

Hubert THIERRY
Vice-President

Francis SPAIN
Member

Geneva, 16 July 1996

R. Maria VICIEN-MILBURN
Executive Secretary