



AUAdministrativeTribunal@africa-union.org

FILE NUMBER: BC/OLC/2.12
JUDGMENT NUMBER: AUAT/2015/003
[TRANSLATION CODE: LC15797-2/66/2/1/7]

B.I., APPLICANT

v.

CHAIRPERSON OF THE AFRICAN UNION COMMISSION

JUDGMENT

Counsel for the Applicant:

PRO SE

Counsel for the Respondent:

ALIMAMY SESAY
ESTHER UWAZIE

The Tribunal regrets the delay in the examination of this case filed on 18 April 2000 but could not be heard until the September 2014 session.

JUDGMENT

BEFORE: Hon. Andrew NYIRENDA, Shaheda PEEROO and Aliou BA

DELIVERED BY: Hon. A. BA

Whereas, Mr. B.I. was in the service of the OAU, now the African Union, starting 30 January 1989, the date of his recruitment as a trade economist, filed an appeal since 10 January 2000 to the Secretary-General of the OAU in accordance with Article 62 of the Staff Rules against Letter No. 381 of 25 March 2000 concerning his dismissal. By this action, he clearly expressed his intention to file a petition against this decision that he considered to be arbitrary, illegal and inappropriate. Having received no response, he seized the Administrative Tribunal by an application instituting these proceedings.

The applicant was recruited under contract in January 1989 as a trade economist and since then his contract has been renewed several times. In the exercise of his functions, he mainly dealt with the promotion of trade and tourism, which enabled him to participate in and host several shows as well as to carry out several activities in regional and sub-regional organizations such as ECOWAS among others.

From 22 to 23 March 1999, the 69th Ordinary Session of the Executive Council held in Addis Ababa adopted Decision CM/44/69 LXIX, committing the organization in a deep restructuring and reform process. This decision was endorsed by the 35th Ordinary Session of the Assembly of Heads of State and Government held in Algeria in July 1999, thus rendering the process irreversible.

To implement this reform, the organization hired an Office of Independent Experts to conduct an internal audit and at the same time assess staff performance. The findings of the study served as a basis for the abolition of some positions and the dismissal of certain officials and employees. It was in this context that the applicant was dismissed on 25 March 2000.

In response to the request of the applicant, the respondent believed that the applicant had not complied with the provisions of Article 11 of the Rules of Procedure which required him to file his petition in four copies whereas he filed only two copies, the respondent requested the Tribunal to declare the action inadmissible.

The respondent also asked for the applicant's claims to be rejected on the grounds that they were unfounded and provided no evidence of his allegations while his action was frivolous and unsubstantiated. According to the respondent, the dismissal of the applicant resulted from the abolition of his post following the restructuring of the organization as intended by its supreme bodies rather than from his incompetence and even less any discrimination. The number of times his contract was renewed is proof.

The Tribunal, considering that on the form, the applicant observed the prescriptions of Article 62 of the Staff Rules and properly seized the Tribunal following a preliminary appeal to the Secretary-General of the Organization. That Article 11 of the Rules of Procedure of the Tribunal recommending the filing of petitions in four copies is only a formal requirement and can be regularized at any stage of the process. This provision was not enacted under penalty of inadmissibility or invalidity.

The Tribunal, therefore, declares the action admissible in form.

The Tribunal basically considers that the dismissal of the applicant occurred in a particular context dictated by the imperative to implement the recommendations of the supreme bodies of the organization and the resulting restructuring. The approach followed within the framework of this reform concerning the audit and the individual assessment of staff performance reflects a concern for transparency and fairness on the part of the organization.

The dismissal letter was sufficiently substantiated and justified. The applicant has not submitted admissible evidence of his allegations concerning the abusive, arbitrary or discriminatory nature of his dismissal.

That in various letters sent to the Secretary-General and the application submitted to the Tribunal, the applicant is merely boasting his merits and skills, which

constitutes a self-assessment and satisfaction that cannot be considered as relevant evidence.

Considering that in accordance with Articles 23 and 50 of the Staff Rules and Articles 30 and 52 of the Staff Rules, all his rights arising from the dismissal have been met, the Tribunal declares that the dismissal was neither abusive nor arbitrary.

For these reasons, the Tribunal, deliberating in accordance with its Rules of Procedure, declares that it has jurisdiction to validly try the case and decides as follows:

1. The applicant's claims are rejected as unfounded;
2. In the circumstances, the Tribunal orders each party to bear its own expenses;
3. Rejects any further claims by the parties.

PRONOUNCED this 26th day of October 2015 in Addis Ababa, Ethiopia.

/s/

HONORABLE JUSTICE ANDREW K. C. NYIRENDA SC, PRESIDENT

/s/

HONORABLE JUSTICE SHAHEDA PEEROO

/s/

HONORABLE JUSTICE ALIOU BA