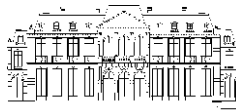


OCDE

ORGANISATION DE COOPÉRATION ET
DE DÉVELOPPEMENT ÉCONOMIQUES



OECD

ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT

ADMINISTRATIVE TRIBUNAL

Judgment of the Administrative Tribunal

handed down on 14 June 2000

JUDGMENT IN CASE No. 47

Mrs. A.

v/ Secretary-General

Translation

(The French version constitutes the authentic text)

JUDGMENT IN CASE No. 47 OF THE ADMINISTRATIVE TRIBUNAL

Sitting on Wednesday 7 June 2000
at 10.30 a.m. in Annex Monaco of the OECD,
2 rue du Conseiller Collignon, Paris

The Administrative Tribunal consisted of:

Mr. Jean MASSOT, Chairman,
Professor James R. CRAWFORD
and Mr. Justice Dermot KINLEN,

with Mr. Colin McINTOSH and Mrs. Christiane GIROUX providing Registry services.

On 17 December 1999, Mrs. A., Head of the Accounting Division of the OECD Budget and Finance Service, was informed by the Secretary-General that she was suspended on salary pending completion of the disciplinary action initiated in her regard by the Head of Human Resource Management.

On 6 January 2000, Mrs. A. asked the Secretary-General to reconsider this decision, a request which was refused on 10 January 2000.

On 13 January 2000, Mrs. A. filed an application (No. 047) requesting the Tribunal to ask the Secretary-General to reconsider his decision and restore her normal working conditions, and to award her compensation for moral prejudice.

On 14 March 2000, the Secretary-General submitted his comments asking for the application to be dismissed.

On 12 April 2000, the applicant submitted a reply.

On 15 May 2000, the Secretary-General submitted his comments in rejoinder.

The Tribunal heard:

Maître Eric Morain, Barrister, Counsel for the applicant;

and Mr. David Small, Head of the Organisation's Directorate for Legal Affairs, on behalf of the Secretary-General.

It handed down the following decision:

The facts

Mrs. A. was suspended on salary on the grounds that disciplinary action had been taken against her for a service-connected fault. In response to the appeal she made to the Secretary-General against this decision, she was informed that the disciplinary action had been taken because of a false statement she was alleged to have made during the procedure which led to her recruitment in 1998.

The law

Instruction 121/1.3 for the implementation of Regulation 21 of the Staff Regulations relating to the procedure for disciplinary cases provides that “where the fault of which an official is suspected is such that the appropriate disciplinary measure would be suspension without salary or dismissal, the Secretary-General may suspend the official on salary pending the completion of the procedure set out in this Instruction”.

The Tribunal emphasises that the decision it is called upon to take today does not in any way prejudge the outcome of any dispute which might arise if a disciplinary measure were actually to be pronounced. It must therefore reach its decision by determining whether the conduct of which Mrs. A. is accused, were it to be proved, would justify a disciplinary measure of a nature such that she could, in the meanwhile, be suspended on salary. It is only if it appeared that there was nothing in the file, at the time the Tribunal gives its ruling, to support the accusations made against Mrs. A. that it could annul the suspension.

While its decision cannot be interpreted as a judgment as to the existence, or otherwise, of the fraud of which Mrs. A. is accused, the Tribunal finds that the file is not devoid of any element in support of such fraud. It notes that if such elements were to be proved, the disciplinary measure called for could be at least suspension without salary. In these circumstances, the Tribunal considers that Mrs. A.’s application must be dismissed.

Costs

The Tribunal reserves its decision on this point pending the follow-up to the procedure, Mrs. A. having already filed a second application.

Consequently, the Tribunal decides:

- 1) The application is dismissed
- 2) The decision on costs is postponed.