CHAPTER 3

The First Judgements and the First Objections by the UN Administration (1950)

3.1 The First Judgements (1950)

Very soon after it came into existence, the Tribunal was confronted, at its first session held in June 1950 presumably at Lake Success, New York, with the cases of fifteen staff members whose appointments had been terminated by the Administration as a result of the abolition of their category of posts, that of Verbatim Reporters, and its replacement by a new category of posts, that of Editor-Verbatim Reporters. The Administration’s decision was communicated to the Applicants on 23 March and 21 April, 1950. The Tribunal decided to address all these fifteen cases together in one single judgement.

The very first judgement of UNAT concerned, however, a procedural issue related to two applications for intervention in the above fifteen cases. The first application was made by a member of the Staff Committee, on behalf of the latter, invoking in support of her request, as stated in the judgement, “her right to represent the interests of staff members of the United Nations who hold permanent contracts and who, according to the applicant for intervention, would be entitled to submit individual and separate applications for intervention.” In its Judgement No. 1, pronounced in public hearing on 29 June 1950, the Tribunal decided “to disallow” this application, but agreed “to grant a hearing to the representative of the Staff Association in accordance with article 17, paragraph 2, of the Rules” of the Tribunal. The second application for intervention was made by a staff member who was in a position similar to that of the other fifteen Verbatim Reporters. On this ground, the Tribunal, decided to allow her intervention and to include her case in the list of cases as case No. 16.

133 While the Tribunal did not indicate the nature of contracts held by the Applicants, it may be reasonably deducted from the application for intervention by a member of the Staff Committee on behalf of staff members who hold permanent contracts that the Applicants held indeterminate or permanent appointments.

134 This active member of the Staff Committee would be dismissed by the Secretary-General some two years later, on 16 October 1952, following her appearance on 14 October 1952 before the Senate Internal Security Sub-Committee of the United States and on the basis of an unfavourable recommendation of the United Nations Walters Selection Committee.
Since this latter decision had not been formally included in the official document of Judgement No. 1, although it was duly pronounced together with the preceding decision in public hearing on 29 June 1950, it was quite oddly reported in a document entitled “Judgement No. 1 – Addendum,” as a “Note by Executive Secretary,” signed by him alone.

Judgement No. 2 was the first judgement pronounced by the Tribunal on a substantive issue. While it upheld the wide discretionary power of the Secretary-General in the management of the Secretariat, the Tribunal found nonetheless in favour of the sixteen applicants. It based this favourable judgement on procedural grounds, namely, on the fact that the procedure actually followed by the UN Administration in the cases under consideration was in conflict with staff rule 104 “and with what appear to the Tribunal to be fair and equitable principles of procedure, in that the Administration gave notice of termination of contract before fully examining the possibilities of transferring the individuals expected to be affected by the changes in contemplation to other posts of any kind to which they might be suited in the United Nations organization.” Consequently, the Tribunal found “that the notices of termination were invalid” and ruled that the contracts of the sixteen applicants were still in force. Accordingly, the Secretary-General accepted to rescind the decision to terminate the contracts of the Applicants instead of maintaining the decision and paying them compensation. It should be emphasized that this was apparently the only time when the Secretary-General accepted to rescind his decisions regarding termination of appointments and to abide by the Tribunal's order to reinstate the Applicants.

It should be noted that, time wise, the Tribunal acted very efficiently in this case. Indeed, hardly two months had elapsed from 21 April 1950, the date on which some of the Applicants had received from the UN Administration the latest contested letters giving them notice of termination of their contracts, until 30 June 1950, the date on which Judgement No. 2 was pronounced by the Tribunal in public hearing. It is true that, in this particular circumstance, the cases were directly submitted to the Tribunal, without intervention by the Joint Appeals Board. It should also be highlighted that the Tribunal adopted oral proceedings and actually and literally heard the case, including the statement by the representative of the Staff Association. At this inaugural session, the Tribunal was composed of three eminent personalities: it was chaired by Lieutenant-General His Highness Maharaja Jam Saheb of Nawanagar, (India), President; the second member, Vice-President, was Madame Paul Suzanne Bastid (France), who would become an emblematic figure for UNAT of which she would remain an active member without interruption during thirty-three years until 1982, a record in the history of UNAT; the third member was Sir Sydney Caine (United Kingdom), Vice-President.