

Translated from French



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8. On 5 October 2011, the Applicant asked the Human Resources Section of

17. On 25 June 2012, the Respondent replied to Order No. 117 (GVA/2012) and on 29 June, the Applicant submitted observations and submissi

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- c. With regard to the repatriation grant, the Applicant did not, in fact, satisfy the eligibility criteria listed under rule 3.18 (c), particularly that contained in subparagraph (iv): “The staff member has not been locally recruited under staff rule 4.4”;
- d. Contrary to the Applicant’s assertion, ITC did not consider that she had permanent resident status in France and that it was not on the basis of subparagraph (v) of rule 3.18 (c) that she was denied payment of the repatriation grant;
- e. According to rule 3.18 (e) and annex IV of the Staff Rules and Regulations, the payment of the repatriation grant is also contingent upon submission of evidence that the staff member has relocated away from the country of the last duty station. Administrative instruction No. ST/AI/2000/5 (repatriation grant) also clarifies that the relocation shall not be temporary in nature. It was clear that the Applicant had not returned to live in Canada and had no intention to do so since she had been granted permanent resident status in France. Although the Applicant maintained that she had established Thonon-les-Bains, France, as her place of residence, that did not make her eligible for the repatriation grant since she moved there before leaving the service of ITC and Thonon-les-Bains was in the commuting zone of Geneva. The Applicant’s situation was very different to that outlined in Judgment No. 656, *Kremer and Gourdon* of the former Administrative Tribunal;
- f. With regard to the payment of the Applicant’s travel expenses to Canada upon her separation from service, she would be eligible only if she had established her domicile in Canada, which was not the case;
- g. In any event, the Applicant was not entitled to payment of travel expenses to Canada since rule 7.1(b) stated that “the United Nations shall pay the expenses of a staff member to travel to the place of recruitment” and the Applicant was not recruited from Canada.

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20. The Applicant contests the decision refusing her payment of a repatriation grant and reimbursement of her travel expenses to Canada upon her separation from service.

21. While in a final document submitted the day after the hearing, the Applicant requested the Tribunal to order the Administration to produce new documents, the Tribunal considers that it has sufficient information from the documents already submitted and the discussions at the hearing and therefore rejects this request.

22. Since the Secretary-General does not have the discretionary power to grant or refuse an allowance provided for under the Staff Rules and Regulations and is required to apply the current regulations strictly, the Tribunal, when it considers an application contesting the refusal of an allowance, as in this case, must restrict itself to verifying whether the relevant regulations entitle staff members to the said allowances regardless of the merits of the reasons given by the Administration for refusing them. Thus, the Applicant's reasoning that she was refused payment of the contested allowances as part of a larger pattern of retaliatory actions and that other staff members in the same situation as her would have received the contested allowances is irrelevant with regard to the case under consideration and must be rejected by the Tribunal.

As to the repatriation grant

23. Annex IV of the Staff Rules and Regulations provides:

In principle, the repatriation grant shall be payable to staff members whom the Organization is obligated to repatriate and who at the time of separation are residing, by virtue of their service with the United Nations, outside their country of nationality. ... Eligible staff members shall be entitled to a repatriation grant only upon relocation outside the country of the duty station. Detailed conditions and definitions relating to eligibility and requisite evidence of relocation shall be determined by the Secretary-General.

24. It clearly follows from the above provision that to be eligible for payment of a repatriation grant, the staff member must not only meet certain conditions, but, first and foremost, must have relocated upon separation from service. Yet, the Applicant, who has held temporary resident status in France since 2008, before she was recruited by ITC, has not relocated upon her separation from service.

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28. The aforementioned rule 5.2 states:

(a) Internationally recruited staff members, as defined under staff rule 4.5 (a) and not excluded from home leave under staff rule 4.5 (b), who are residing and serving outside their home country and who are otherwise eligible shall be entitled once in every twenty-four months of qualifying service to visit their home country at United Nations expense for the purpose of spending in that country a reasonable period of annual leave. Leave taken for this purpose and under the terms and conditions set forth in this rule shall hereinafter be referred to as home leave.

(b) A staff member shall be eligible for home leave provided that the following conditions are fulfilled: [...]

(c) Staff members whose eligibility under paragraph (b) above is established at the time of their appointment shall begin to accrue service credit towards home leave from that date. Staff members who become eligible for home leave subsequent to appointment shall begin to accrue such service credits from the effective date of their becoming eligible. [...]

29. Although it is not contested that the Applicant was appointed to the P-2 level on 1 June 2010, by applying the aforementioned rules, the Applicant

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32. Nevertheless, given the detailed allegations made by the Applicant, both in writing and at the hearing, that ITC would have awarded staff members in the