
APPEALS TRIBUNAL
TRIBUNAL D 'APPEL DES NATIONS UNIES

Judgment No. 2019-UNAT-949

Sheffer
(Appellant)

v.

Secretary-General of the
International Maritime Organization



Registrar: Weicheng Lin

Counsel for

JUDGE SABINE KNIERIM , PRESIDING .

1. This matter arose out of Mr. Robert Sheffer's request for an up-grade of his post within the International Maritime Organization (IMO). The Secretary-General of the IMO rejected his request on 31 January 2019 upon advice from the IMO's Classification Committee (CC) and the IMO's internal appeals process, the Staff Appeals Board (SAB), both of which had recommended that the post remain at its current grade. The United Nations Appeals Tribunal (Appeals Tribunal) is seized of Mr. Sheffer's appeal against this rejection. For reasons set forth below, we remand the matter to the SAB.

Facts and Procedure

2. Mr. Sheffer has been employed by the IMO since 1 February 1999. Currently, he serves as a Senior Information Systems Assistant on Post No. 5003031, which had been classified in the General Service category. In 2008 it was reclassified from the G-6 level to the G-7 level.

3. In June 2016, Mr. Sheffer filed a reclassification request at the encouragement of the Senior Director/Head of the section. On 9 November 2016, by way of internal memorandum Mr. Sheffer was informed by Head of Human Resources Service (H/HRS) that his request for reclassification to a Professional category had been denied. The memorandum stated that the CC had reviewed the duties of his post in accordance with the procedures laid down in IMO's Staff Rule 102.1, and that the present grade of G-7 had been confirmed.

4.

12. Mr. Sheffer argues that this contradicts the information provided to him previously by e-mail dated 10 April 2017 from Mr. Bregliano, the former Head/HRS, wherein Mr. Sheffer was referred to a document entitled, “Principal differences between General Service and Professional Posts” and was informed that:

There is no matrix to fill in in order to get a response to [the reclassification] question. The decision is based on the definitions and descriptions that can be found in the attached document which describes the differences between the nature of the duties and responsibilities at the General Service and the Professional level [...]. The role of the Committee is to establish whether the bulk of the duties and responsibilities are in one category or the other. In your case, it was established that most of your duties lie at the General Service level. Since you were already at the G-7 level there was no need to fill in an evaluation sheet[...].

13. Mr. Sheffer argues that the IMO erred in law and procedure as it failed to provide any empirical evidence, explanations, scores, justifications, or other analysis to explain or justify the classification decisions. Further, the decisions failed to attach the ratings and comments despite stating they were attached and despite being required by Article 2.4 of ST/AI/1998/9, the Administrative Instruction on the System for the classification of posts, which is applicable to the United Nations. The IMO committed procedural errors due to the total lack of transparency as the decisions refer to the CC as having used the CSC standards. However, there is no evidence this is true. There is no record of the results of the alleged analysis. There is no explanation as to what the “various factors in the system established by the Secretary-General of the IMO” are or mean. There is no way to conclude that the analysis required under Rule 102 has been undertaken properly per a judicial review or if it has been taken at all.

14. The IMO does not have an equivalent appeals committee as is present in the Secretariat of the United Nations, and the lack of this internal appeals committee deprives him of his right to have classification decisions considered and reviewed by a competent and independent body.

15. The Secretary-General of the IMO and/or the SAB erred in law in breaching IMO’s Staff Rule 102.1 as follows: they did not adequately or at all evaluate the duties and responsibilities of the post; they failed to analyze the relationship between his post and other relevant posts; they failed to conduct analysis on the basis of the various factors in the system established by the Secretary-General of the IMO; they failed to evaluate how the post fits into the overall structure; they failed to make and provide notice of the classification results, including the final ratings and/or comments on the basis of which the decision was taken; they reached

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19. The IMO fully complied with IMO's Staff Rule 102.1(i), which stipulates that posts shall be classified in accordance with the methodology promulgated by the ICSC and with procedures established by the Secretary-General of the IMO. The IMO established a tri-partite CC comprising of: 1) an independent job classification expert; 2) the alternate of the Head of HRS, and 3) a trained staff representative chosen from a pool of staff nominated by the IMO Staff Committee. The CC fully complied with Rule 102.1 and applied the classification system established by the ICSC. The CC separately reviewed the post and concluded unanimously that it was correctly placed in the General Service category. Also, it is noted that the post was submitted for reclassification twice (in 2016 and 2017) and on both occasions the CC unanimously placed the post in the General Service category. It should be noted that, in 2016 and 2017, the CC had different staff representative and HRS representative on board.

20. Mr. Sheffer incorrectly argues that the SAB and/or Secretary-General of the IMO failed to appropriately consider whether the CC complied with the relevant regulations and rules and administrative issuances. When assessing the duties and responsibilities of the post, the CC followed the classification system established by the ICSC and the elements of evaluation described in Rule 102.1(i), e.g. the relationship between posts and how it fits into the overall structure of the section. It also followed the process which required: analysis of the component parts of the job; comparison with other jobs in similar disciplines; discussion with the supervisor; comparison with benchmark jobs developed by the ICSC; and assessment of the occupational field. Each member of the CC applied these methods and unanimously and independently determined the post was properly within the General Service category.

21. The Secretary-General of the IMO enclosed in his answer to the appeal *inter alia* an Affidavit, dated 3 June 2019, by Ms. Lakeita Henriques, which stated *inter alia* that: (i) she chaired the job evaluation committee which reviewed Mr. Sheffer's post; (ii) the committee first determined the category of either Professional or General based on definitions in the Common Classification of Occupational Groups (CCOG) of the ICSC job classification standards; (iii) the post was also examined against the Benchmark Grade Profile position: Senior Information Technology Support Assistant in the GS standard and found to be comparable; and (iv) it was agreed that the post should remain in General Service category.

22. There was no breach of Article 2.4 of ST/AI/1998/9, the Administrative Instruction on the System for the classification of posts, as this instruction did not apply to the IMO. There is no equivalent rule in IMO's rules and regulations that require the notice of the classification results to the incumbent of the post including the final ratings and/or comments on the basis of which the decision was taken. HRS nevertheless provided Mr. Sheffer with a notice of the reclassification results which set forth that the

advice received from a technical body such as the CC, the appeal is to be “limited to the decision taken in response to the advice”.

25. Article XI of the IMO’s Staff Regulations and Rules is based on the terms of the Agreement between the United Nations and the IMO which took effect on 1 July 2009 extending the jurisdiction of the Appeals Trib

Judgment

29. The case is remanded to the SAB.

Original and Authoritative Version: English

Dated this 25th day of October 2019 in New York, United States.

(Signed)

Judge Knierim, Presiding

(Signed)

Judge Colgan

(Signed)

Judge Neven

Entered in the Register on this 20th day of December 2019 in New York, United States.

(Signed)