

THE FACTS

The facts of the case as submitted by the applicant may be summarised as follows:

The applicant is a United States citizen, born in 1931 and resident in F..

From the applicant's detailed statements and a large number of documents which he has submitted, it appears that he was given employment as an electrician with the ... Board in August 1962. While he was working at a generating station at B., he was elected shop-steward for the ... Trade Union. During this period he organised an unofficial strike at the site in order to protest against the failure of the Union to look after the interest of the workers.

In July 1963 the applicant was transferred to F. Power Station where he was also elected shop-steward. According to the applicant, relations between the workers and the management were poor and the applicant had frequent disputes with the assistant electrical engineer and the chargehand. The latter allegedly asked the applicant on several occasions to resign as shop-steward and promised him promotion if he did this. After a dispute over working conditions, the applicant was informed that he was redundant and on .. January 1964 he was dismissed. He complained to the union and three weeks later he was reinstated. However, shortly afterwards, he fell ill and stayed at home for a few months.

When he returned to F., the rest of the workers were transferred from the site and the applicant was left alone on the site for the winter of 1964-65. The Board removed the canteen and toilets to another site and the applicant had to stay in a large wooden box which did not even keep the rain out.

After the applicant had left F. an order for a quantity of copper wire was placed in his name. This gave rise to an inquiry at which the applicant was charged with having used the Board's transport for his private business.

In March 1965 the applicant was transferred to A. where his work mainly consisted of washing the grease off old cookers and washers and installing these second-hand parts into new ones. A few days later the applicant resigned as he feared that he would only be given unpleasant jobs.

In April 1965 the applicant found new employment in B., which he describes as a State firm. After a number of disputes the applicant resigned in January 1967 as he felt that he could no longer continue his work under these conditions. He submits that he had been unable to find work since.

The applicant has complained to the Prime Minister, the Minister for Transport and Power, the Commission on Industrial Relations in the ... Board, the Union and other authorities or bodies in order to get redress. All these attempts have, however, been of no avail. He also consulted solicitors and counsel who refused to bring any action on his behalf.

In January 1968 the applicant decided not to pay his car tax until the authorities would attend to his case. On .. April 1968, he was fined on this account. On .. October 1968, the applicant was arrested for failure of paying the fine. The next morning, however, he decided to pay the fine and the tax arrears and was released.

The applicant's nine "charges" against the respondent Government may be summarised as follows:

1. He was improperly restricted from carrying out his duties as shop-steward at F. by the management and pressure was brought on him to permit a serious breach of Trade Union Principle (Article 11 (2) of the Convention);

2. He was subjected to a form of punishment by being left alone in an old wet hovel at F.. with the toilets and wash-house removed and the installations in the main station closed to him (Article 3 of the Convention);

3. The work given to him at A. amounted to unlawful practice in which he was obliged to take part or leave the job (Article 9 of the Convention);

4. When the enquiry was held concerning the purchase of copper wire at F., the applicant was not there to defend himself against the accusations that he had used the Board's transport for private business and his subsequent request to let him prove that he was innocent of these charges had been turned down (Article 5, paragraph (3) of the Convention);

5. While working for B. he was subjected to the same "victimisation campaign" as had been carried out at the ... Board and there were repeated breaches of his employment contract (Articles 3 and 5 of the Convention);

6. He was imprisoned on .. October 1968, in M. Prison although the judge had never imposed any previous sentence to be served if he had failed to pay the fine concerned (Article 5, paragraph (3) of the Convention);

7. On .. October 1968 the Government had an article on his imprisonment printed in its paper the "... " in a manner which would lead the public to believe that he was a potential law-breaker (Article 5, paragraph (3) of the Convention);

8. The solicitors consulted by the applicant, who were also State solicitors for County L.. as well as counsel, refused to act on his behalf (Article 13 of the Convention);

9. The applicant, his wife and two children are forced to live with his parents and his wife suffers from depression because of his lack of permanent employment. He alleges that this amounts to interference with his home and family life (Article 8 of the Convention).

The applicant requests clearance of his record with the State firms and compensation for all wages and service lost. He also wants an apology from the newspaper and compensation.

THE LAW

Whereas the applicant complains of interference with the exercise of his duties as a shop-steward during his employment at the ... Board; Whereas this complaint raises a question under Article 11 (Art. 11) of the Convention according to which everyone has the right "to freedom of association with others, including the right to form and join trade unions for the protection of his interests";

Whereas, however, it results from Article 19 (Art. 19) of the Convention that the sole task of the Commission is to ensure the observance of the engagements undertaken in the Convention by the High Contracting Parties, being those members of the Council of Europe which have signed the Convention and deposited their instruments of ratification; whereas, moreover, it appears from Article 25 (1) (Art. 25-1) of the Convention that the Commission can properly admit an application from an individual only if that individual claims to be

the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention provided that the Party in question has accepted this competence of the Commission;

Whereas the Commission finds that an examination of the file at the present stage does not give the information required for determining the question of admissibility of this part of the application particularly as regards the responsibility of the Iris Government under the Convention;

Whereas, therefore, the Commission decides, in accordance with Rule 45, 3 (b) of its Rules of Procedure to give notice thereof to the respondent Government and to invite it to submit its written observations on the question of admissibility; whereas, in the meanwhile, the Commission decides to adjourn its examination of this part of the application;

Whereas, however, the Commission is able to deal at once with the other aspects of the applicant's complaints;

Whereas, insofar as his complaints can be said to be directed against the ... Union and its officials, it results clearly from the Articles mentioned above that the Commission has no competence *ratione personae* to admit applications directed against private individuals;

Whereas, in this respect, the Commission refers to its previous decisions Nos. 172/56 (*S. v. Sweden* - Yearbook, Vol. I, p. 211) and 752/60 (*S. v. Federal Republic of Germany* - *ibid* VI, p. 346);

Whereas it follows that this part of the application is incompatible within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, the applicant has also made complaints in connection with his employment at B.. and in particular has generally alleged that he was subjected to the same victimisation campaign as had been carried out at the ... Board; whereas the same question arises as to whether the alleged conduct of B. or its officials could entail the responsibility of the respondent Government under the Convention; whereas the Commission does not find it necessary to determine this question since, even assuming that the Government was responsible, an examination of these complaints, insofar as they are made under Articles 3 and 4 (Art. 3, 4) of the Convention do not disclose any appearance of a violation of the rights and freedoms set forth in the Convention; whereas the applicant has made no complaint under Article 11 (Art. 11) in this connection and indeed it appears that, during the period concerned, he was not a shop-steward nor does he himself contend that there was any dispute between him and his employer arising out of his membership of the trade union;

Whereas, therefore, this part of the application does not call for an examination under Article 11 (Art. 11) of the Convention;

Whereas it follows that these particular complaints are manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, the applicant also complains of the manner in which the ... Board carried out the inquiry concerning the purchase of copper wire, in particular, that he was refused permission to prove that he was innocent of the charges made against him in this connection and whereas he alleges thereby a violation of Article 5, paragraph (3) (Art. 5-3) of the Convention; whereas the question again arises whether the respondent Government could be made responsible under the Convention for any acts of the ... Board; whereas the Commission will at a later stage consider this question in connection with the above-mentioned part of the application on which the respondent Government is being

invited to submit its observations; whereas, however, even assuming that allegations made by the applicant in this respect could entail the responsibility of the Government, the Commission finds again that an examination of this further complaint also does not disclose any appearance of a violation of the rights and freedoms set forth in the Convention; whereas in particular, the Commission observes that the inquiry did not affect the applicant's "liberty and security of person" within the meaning of Article 5 (Art. 5) and that, accordingly, the said Article which is the only one invoked by the applicant in this connection does not apply here; whereas it follows that this part of the application is manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, insofar as the applicant complains of having been unlawfully imprisoned for failure of paying a fine, the Commission may, under Article 26 (Art. 26) of the Convention, only deal with a matter after all domestic remedies have been exhausted according to the generally recognised rules of international law; and whereas the applicant failed to institute any proceedings before the competent courts on this account; whereas, therefore, he has not exhausted the remedies available to him under Irish law; whereas, moreover, an examination of the case as it has been submitted, does not disclose the existence of any special circumstances which might have absolved the applicant, according to the generally recognised rules of international law, from exhausting the domestic remedies at his disposal; whereas, therefore, the condition as to the exhaustion of domestic remedies laid down in Articles 26 and 27 (3) (Art. 26, 27-3) of the Convention has not been complied with by the applicant.

Whereas, to the extent that the applicant's complaints are directed against the newspaper, it is recalled that the Commission has no competence *ratione materiae* to admit applications directed against private individuals or private enterprises;

Whereas the same ground of inadmissibility applied to the applicant's complaints directed against the solicitors consulted by him;

Whereas, finally, the applicant complains that he and his family are forced to live with his parents and that his wife suffers from depression resulting from his lack of permanent employment and he alleges that this amounts to an interference with his home and family life contrary to Article 8 (Art. 8) of the Convention; whereas the Commission does not find that this complaint discloses any appearance of a violation of the rights and freedoms set forth in the Convention and in particular in the Article invoked by the applicant; whereas it follows that this part of the application is also manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention.

Now therefore the Commission

1. Invites the Government of Ireland to submit its observations on the question of admissibility of the complaint concerning interference with the applicant's duties as a shop-steward while he was employed at the ... Board;

Decides to adjourn its examination of the admissibility of the applicant's said complaint;

2. Declares inadmissible, for the reasons stated above, the remainder of the applicant's complaints.