

EIGHTY-SECOND SESSION

In re Popineau (No. 13)

Judgment 1591

The Administrative Tribunal,

Considering the thirteenth complaint filed by Mr Gérard Popineau against the European Patent Organisation (EPO) on 18 April 1996;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. This is Mr. Popineau's thirteenth complaint against his former employer, the European Patent Organisation. He wants the Tribunal to send the case back to the EPO so that the chairman of its Administrative Council may offer him an apology and he may be reinstated forthwith.
2. The background to the case was set out under 2 to 16 in Judgment 1363, which the Tribunal delivered on 13 July 1994 on his sixth, seventh and eighth complaints. By a decision of 2 September 1992 the EPO dismissed him for disciplinary reasons at 1 February 1993. He lodged those three complaints in August 1993 asking for the quashing of his termination and for reinstatement. The Tribunal dismissed them in Judgment 1363.
3. In Judgment 1540 of 11 July 1996 the Tribunal dismissed his ninth complaint on the grounds that any issue ruled on in Judgment 1363 was *res judicata*. So the rejection of his claims to the quashing of his dismissal and to his reinstatement was no longer challengeable but binding on both parties alike. That would cease to hold good only in the quite exceptional case where the Tribunal allowed an application by the complainant for the review of Judgment 1363.
4. He has made no such application. So it is futile for him to try to get the Tribunal to reverse its dismissal of his claim to reinstatement by filing a new complaint against the rejection he infers from the Administrative Council's silence.
5. Nor may the Tribunal order the chairman of the Council to offer him an apology. The Tribunal is not competent to issue an order of that kind to the authorities of an international organisation.
6. Since the complaint is "clearly irreceivable" it must be summarily dismissed under Article 7 of the Rules.

DECISION

For the above reasons,

The complaint is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Mr. Michel Gentot, Vice-President, and Mr. Edilbert Razafindralambo, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 30 January 1997.

(Signed)

William Douglas
Michel Gentoat

E. Razafindralambo
A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.