

EIGHTY-NINTH SESSION

***In re* Curina (No. 2)
(Application for review)**

Judgment No. 1952

The Administrative Tribunal,

Considering the application for review of Judgment 1727 filed by Ms Brenda Curina on 23 February 1999 and corrected on 6 April, the reply of 9 July from the World Health Organization (WHO), the complainant's rejoinder of 12 October 1999 and the WHO's surrejoinder of 11 January 2000;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written submissions;

CONSIDERATIONS

1. In Judgment 1727, delivered on 29 January 1998, the Tribunal disallowed the complainant's claim seeking to set aside the Director-General's decision confirming the abolition of her post and refusing to assign her to other employment. The Tribunal found that the Organization did not have to apply the reduction-in-force procedure to a post which the complainant knew to be of limited duration, that there were objective reasons for abolishing the post and that the procedure had not been misused.

2. By this application, the complainant asks the Tribunal to review this judgment. She contends that the Tribunal did not take into account certain facts which might have made it possible for her complaint to succeed by proving that objective criteria had not been applied in the decision to abolish her post. She mentions form 172 headed "Notification of decision on position request" and says that the belated production of that form prevented her from arguing, as other WHO employees in similar situations had done, that her post was of unlimited duration. Finally, she submits that her legal arguments were not presented in a sufficiently effective manner by her former counsel and that this lack of assistance justifies her in applying for review of the judgment.

3. Consistent precedent has it that the Tribunal's judgments are final and without appeal and that they carry the authority of *res judicata*. It is only in quite exceptional circumstances that an application for review, although not provided for in the Statute, can be allowed: the only grounds which may be entertained are failure to take account of particular facts, a mistaken finding of fact that involves no exercise of judgment, omission to rule on a claim and the discovery of some new facts which the complainant was unable to invoke in time in the proceedings which led to the judgment which the complainant is seeking to reverse. The application for review should also be filed within a reasonable time and the pleas put forward should be of such a nature as to affect the original ruling.

4. In the present case, the Tribunal finds that none of the grounds exist for challenging the ruling already made. Irrespective of the fact, that her application for review was only filed more than one year after the adoption of the judgment that she is challenging - a matter which was not mentioned by the WHO - the complainant now merely calls into question the conclusions reached by the Tribunal. In so doing she contends that the Organization wrongly considered her service to be unsatisfactory and again attempts to demonstrate that the WHO's attitude towards her was governed by subjective factors, and that the abolition of her post was not brought about by financial constraints. Similarly, although she argues that a study of the information contained in form 172 would have proved that her post was without limit of time, the evidence shows that the form, which she says constitutes a new fact, had already been sent to her counsel at her request during the internal appeals procedure. The production of the form does not, therefore, by any means constitute the discovery of a new fact which could afford valid grounds for review. Finally, the complainant states that she was not assisted effectively by her former counsel; this plea too,

which is in any case of no relevance, does not warrant review of the Tribunal's judgment.

There being no need to order the hearings requested by the complainant, her application must be dismissed.

DECISION

For the above reasons,

The application is dismissed.

In witness of this judgment, adopted on 5 May 2000, Mr Michel Gentot, President of the Tribunal, Miss Mella Carroll, Vice-President, and Mr James K. Hugessen, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 12 July 2000.

(Signed)

Michel Gentot

Mella Carroll

James K. Hugessen

Catherine Comtet