

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

*Registry's translation,
the French text alone
being authoritative.*

J.-D. (No. 19)

v.

ILO

(Application for review)

126th Session

Judgment No. 3982

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 96 filed by Mr C. J.-D. on 30 November 2017;

Considering Articles II, paragraph 1, and VI, paragraph 1, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. In Judgment 96, delivered in public on 11 October 1966, the Tribunal dismissed as unfounded a complaint which the complainant had filed on 10 August of that year against the decision of the Director-General of the International Labour Office, the secretariat of the International Labour Organization (ILO), to terminate his services owing to his “inability to put [his] duty of loyalty to the service before [his] personal concerns”. The Tribunal held that the complainant’s behaviour, in which he had persisted over a period of several years in spite of the warnings he had received, showed repeated infringements by him of the Staff Regulations and was liable to bring public discredit on the ILO. It concluded that this attitude constituted serious misconduct, such as to justify his dismissal.

2. In his application for review, the complainant asks the Tribunal to quash Judgment 96 on the grounds that it constitutes “unlawful punishment” and infringes internal rules and international texts. He also seeks an award of damages. He states that, having just learned of the recent amendment of Article VI of the Statute of the Tribunal recognising the right of the parties to file an application for review, he asks that his application be admitted taking into account not the date of Judgment 96, but that of the amendment of the Statute.

3. Article VI of the Statute of the Tribunal provides that “[j]udgments shall be final and without appeal. The Tribunal may nevertheless consider applications for [...] review of a judgment.” Consistent precedent has it that the Tribunal’s judgments may be reviewed only in exceptional cases and on strictly limited grounds which must be likely to have a bearing on the outcome of the case (see, for example, Judgments 3001, under 2, 3452, under 2, 3473, under 3, 3634, under 4, and 3721, under 2). Moreover, the case law requires that an application for review be filed within a reasonable time in fairness to both parties (see Judgments 788, 2219, under 2, and 2693, under 4).

4. In this case, on 30 November 2017 the complainant filed an application for review of a judgment delivered on 11 October 1966, in other words more than 51 years earlier. The Tribunal considers that the interval between these two dates constitutes an unreasonable period of time which cannot be justified by reliance on the recent amendment of Article VI of the Statute of the Tribunal. Indeed, this amendment has no bearing on that period, since the Tribunal had already recognised the possibility of filing an application for review long before this was expressly provided for in its Statute (see Judgment 442, defining the theoretical bases for such an application). Indeed, the Tribunal considered that its judicial role necessarily required it to entertain such applications in order fully to dispose of the cases brought to it (see Judgment 3003, under 28).

5. It follows from the foregoing that the complainant's application was filed after an unreasonable period of time. Moreover, the application does not raise any of the admissible grounds for review and is in fact merely an attempt to re-litigate matters that were conclusively decided in Judgment 96. The Tribunal will therefore summarily dismiss this application as manifestly irreceivable in accordance with the procedure set out in Article 7 of its Rules.

DECISION

For the above reasons,
This application for review is dismissed.

In witness of this judgment, adopted on 3 May 2018, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Patrick Frydman, Vice-President, and Ms Fatoumata Diakité, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 26 June 2018.

(Signed)

GIUSEPPE BARBAGALLO PATRICK FRYDMAN FATOUMATA DIAKITÉ

DRAŽEN PETROVIĆ