

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

FIFTY-FIRST ORDINARY SESSION

In re ZIANTE (No. 2)

(Application for review)

Judgment No. 593

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment No. 548, filed by Mr. Jacob Ziante on 16 June 1983, the reply of the World Health Organization (WHO) of 5 September, the applicant's rejoinder of 19 September and the WHO's surrejoinder of 12 October 1983;

Considering Article II, paragraph 5, of the Statute of the Tribunal and WHO Staff Rules 1075, 1130 and 1230.8;

Having examined the written evidence;

CONSIDERATIONS:

1. Neither the Statute nor the Rules of Court provide for review of the Tribunal's judgments. Although an application for review may nevertheless be entertained, only certain pleas will be admitted. In particular, an alleged mistake of law affords no grounds for review. To allow an application for review on the grounds of the Tribunal's reasoning would be to permit anyone who was dissatisfied with a decision to question it indefinitely in disregard of the principle of *res judicata*. Likewise the Tribunal will not allow review on the grounds of an alleged mistake in appraisal of the facts, i.e. the interpretation which the Tribunal has put on the facts.

2. The complainant's application for review of Judgment No. 548 is directed mainly at the Tribunal's finding that he resigned from the WHO. The Tribunal held that the time limit for filing his internal appeal began on the date on which he received notice of the WHO's acceptance of his resignation; and the Tribunal accordingly agreed with the WHO that his appeal to the Regional Board of Appeal had been time-barred and therefore irreceivable. He submits that the Tribunal made a tendentious and incomplete appraisal of the evidence and misconstrued WHO Staff Rules 1075, 1130 and 1230.8. The charge of tendentiousness presupposes that the Tribunal wilfully ignored some items of evidence and took account only of those it thought more material to the dispute; that means he is challenging the Tribunal's appraisal of the facts, i.e. its interpretation of the evidence in the case. Such an allegation cannot afford grounds for review. Furthermore, to say that the Tribunal misconstrued the Staff Rules is to accuse it of an error of law, and such error does not afford grounds for review either.

In any event the complainant's allegations are quite unfounded.

DECISION:

For the above reasons,

The application is dismissed.

In witness of this judgment by Mr. André Grisel, President of the Tribunal, the Right Honourable Lord Devlin, Judge, and Mr. Edilbert Razafindralambo, Deputy Judge, the aforementioned have hereunto subscribed their signatures as well as myself, Allan Gardner, Registrar.

Delivered in public sitting in Geneva on 20 December 1983.

(Signed)

André Grisel

Devlin

E. Razafindralambo

A.B. Gardner

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