

(Application for review)

107th Session

Judgment No. 2816

THE ADMINISTRATIVE TRIBUNAL,

Considering the sixth complaint filed by Mr P. A. against the European Patent Organisation (EPO) on 18 September 2008 and which is an application for review of Judgment 2580;

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

Having examined the written submissions;

CONSIDERATIONS

1. The complainant asks the Tribunal “to review Judgment 2580 on the basis of new facts that cast doubt on the reasoning by which the Tribunal has decided [his] case”.

2. Consistent precedent has it that:

“Neither the Statute nor the Rules of Court permit an application for review of a judgment of the Administrative Tribunal. The Tribunal may therefore declare such an application receivable only in quite exceptional circumstances, for example when new facts of decisive importance

have come to light since the date of the judgment.” (See in particular Judgment 350.)

3. In Judgment 2580 delivered on 7 February 2007 the Tribunal ruled on the complainant’s fourth complaint and found under 6 amongst other things that:

“the Medical Committee’s conclusion on 10 November 2005 that ‘[a]ccording to the EPO definition of [i]nvalidity, [the complainant] is permanently and definitively unable to perform duties at the EPO’ cannot be defined as wrong. [...] The decision made [...] by the Medical Committee, based on reports by the medical practitioner appointed by the complainant and the one appointed by mutual agreement as well as past examinations, is acceptable. [...] The Tribunal may not replace qualified medical opinion with its own, and the Tribunal finds that there is no element according to which it can be affirmed that these medical conclusions are abnormal according to current scientific knowledge.”

4. In his application for review, the complainant merely revisits and reargues the facts already considered by the Tribunal in his fourth complaint. The annexes which he submits in support of his application are all dated long before Judgment 2580 was rendered, and they shed no new light that could conceivably lead to a different analysis of the case. Therefore, there was no new fact which the complainant discovered too late to cite in the original proceedings and which would be such as to affect the Tribunal’s decision.

5. In the circumstances, the Tribunal dismisses the application for review in accordance with the summary procedure provided for in Article 7 of its Rules.

DECISION

For the above reasons,
The application is dismissed.

In witness of this judgment, adopted on 15 May 2009, Ms Mary G. Gaudron, Vice-President of the Tribunal, Mr Agustín Gordillo, Judge, and Ms Dolores M. Hansen, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 8 July 2009.

Mary G. Gaudron
Agustín Gordillo
Dolores M. Hansen
Catherine Comtet