

SEVENTY-FIFTH SESSION

(Application for review)

Judgment 1252

THE ADMINISTRATIVE TRIBUNAL,

Considering the application filed by Miss B. F. on 31 July 1992 for review of Judgment 1165;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Article 8, paragraph 3, of the Rules of Court;

Having examined the written evidence and disallowed the complainant's application for hearings;

CONSIDERATIONS:

1. The complainant is applying for review of Judgment 1165, in which the Tribunal dismissed an application by her for review of Judgment 1097, which had dismissed her complaint against the World Health Organization (WHO).

The facts of the original dispute having been summed up in Judgments 1097, under A, and 1165, under 1, there is no need to restate them here.

The complainant is yet again contending that a certificate of service she was given on 8 August 1990 fails to comply with the requirements of the WHO's Staff Regulations and Staff Rules. But the argument was disposed of in Judgment 1097. As was said in Judgment 1165, under 2 in fine:

"On that score the ruling in Judgment 1097 must hold good

unless the complainant bases her application for review on grounds that not only are admissible but the Tribunal allows."

2. As the Tribunal reaffirmed in Judgment 1165, its rulings have the force of *res judicata* and may not ordinarily be challenged. Only in exceptional circumstances will they be subject to review, on the grounds of failure to take account of some essential fact, a material error involving no value judgment, failure to rule on a claim, or the later discovery of some essential fact that the parties were unable to rely on in the original proceedings.

3. The complainant is seeking the review of a judgment which already refused to review the original ruling. So all that the Tribunal need do is consider whether there has been discovery of any new essential fact that she was unable to rely on in the original proceedings: to go further would offend against the *res judicata* rule.

4. In fact the complainant does no more than put forward again the same arguments as those that supported her first application, which Judgment 1165 dismissed. She cites no essential fact that she was unable to rely on in her original complaint. In sum her application offers no admissible grounds whatever for review of Judgment 1165, is "clearly irreceivable" within the meaning of Article 8(3) of the Rules of Court, and must therefore be dismissed in accordance with the summary procedure provided for in that article.

DECISION:

For the above reason,

The application is dismissed.

In witness of this judgment Mr. José Maria Ruda, President of the Tribunal, Sir William Douglas, Vice-President, and Miss Mella Carroll, Judge, sign below, as do I, Allan Gardner,

Registrar.

Delivered in public in Geneva on 14 July 1993.

(Signed)

José Maria Ruda
William Douglas
Mella Carroll
A.B. Gardner