

EIGHTY-SECOND SESSION

Gill v. IAEA (No. 4)

(Application for review)

Judgment 1562

The Administrative Tribunal,

Considering the application for review of Judgment 1479 filed by Mrs. Nirmal Gill on 26 April 1996 and corrected on 20 May 1996;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Articles 7, paragraph 2, and 15 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant used to be on the staff of the International Atomic Energy Agency (IAEA). This is an application from her for review of Judgment 1479, which the Tribunal delivered on 1 February 1996 and in which it dismissed her second complaint against the Agency. It rejected her claim to an award of damages on account of a letter the Agency had written on 17 November 1993 to the United Nations Industrial Development Organization (UNIDO), which by then was employing her, seeking its help in recovery of a sum of several hundred dollars it had advanced to her in 1990.
2. The Tribunal declared in Judgment 442 (*in re de Villegas* No. 4) and has since often confirmed that it will decline to review a judgment on the grounds -- among others -- of an alleged mistake of law or omission to comment on pleas submitted by either of the parties. Omission to take account of some particular fact is an admissible plea for review, but it can succeed only if the omission is such as to affect the ruling.
3. The applicant contends that the Tribunal "omitted to take account of the material facts, evidence and pleadings" that she had submitted in her complaint and in her rejoinder. She believes that the Tribunal was "looking not at the original submissions but rather at a fictitious set of briefs". In accordance with Article 15 of the Tribunal's Rules she asks it to "ascertain the authenticity of the four briefs that were provided" to it.
4. Although the applicant's pleas are admissible insofar as she is alleging the disregard of material facts, the Tribunal is quite satisfied that all the pleadings and evidence that were before it in the original proceedings were authentic. It will therefore make no order under Article 15.
5. Insofar as the applicant is pleading that the Tribunal omitted to take up her arguments in support of her complaint, the plea is inadmissible.
6. The applicant alleged in her original complaint that the letter dated 17 November 1993 had been written to discredit her and blight her career and had caused her loss of employment and other material and moral injury.
7. The judgment set out in full the evidence on the circumstances in which the letter dated 17 November 1993 came to be written. The Tribunal was satisfied on that evidence that the officials who dealt with the matter honestly believed that she had been informed of the Agency's claim to reimbursement. Her allegation that the letter imputed dishonesty to her was unfounded. There was no evidence to suggest that anyone would have had any reason for wanting to "discredit" her or "blight her career", and her allegation of conspiracy against her by officials of the Agency was unsupported by any evidence. Her own version of the facts contradicts her statement that the letter of 17 November 1993 caused her to lose her employment: she stated in her rejoinder that it was on 4 November 1993 that UNIDO had taken its decision not to extend her contract. Moreover, apart from informing her of the Agency's letter UNIDO took no steps to recover the amount claimed and she failed to show that she had suffered any injury by reason of the letter.
8. The conclusion is that there is no basis whatever for her allegation that the Tribunal failed to take account of

material facts and evidence.

9. Since the application for review is clearly irreceivable or devoid of merit it must be summarily dismissed under Article 7(2) of the Rules.

DECISION

For the above reasons,

The application is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Miss Mella Carroll, Judge, and Mr. Mark Fernando, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 30 January 1997.

William Douglas
Mella Carroll
Mark Fernando
A.B. Gardner