

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

118th Session

Judgment No. 3391

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3091 filed by Mr R.K. S. on 15 June 2012;

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

Having examined the written submissions and disallowed the complainant's application for oral proceedings;

CONSIDERATIONS

1. The complainant requests the review of Judgment 3091, delivered on 8 February 2012, by which the Tribunal dismissed the complaint which he had filed on 11 December 2009.

2. According to the Tribunal's case law, its judgments, pursuant to Article VI of its Statute, are "final and without appeal" and carry the authority of *res judicata*. They may therefore be reviewed only in exceptional circumstances and on strictly limited grounds. The only admissible grounds for review are failure to take account of material facts, a material error involving no exercise of judgment, an omission to rule on a claim, or the discovery of new

facts on which the complainant was unable to rely in the original proceedings. Moreover, these pleas must be likely to have a bearing on the outcome of the case. Pleas of mistake of law, failure to admit evidence, misinterpretation of the facts or omission to rule on a plea, on the other hand, afford no grounds for review (see Judgment 3305, under 3, and the cases cited therein).

3. The complainant asserts that the Tribunal failed to take account of material facts since it did not take into consideration the series of communications, qualified with reservations, that he sent to the Organization after having signed the separation agreement, allegedly under duress.

4. Contrary to the complainant's contention, the Tribunal took account of his allegations concerning the reservations he expressed on signing the separation agreement, which was obtained, according to the complainant, through "extortion", but it stated that it was unable to accept that the agreement had been signed under duress in view of the circumstances preceding its signature by the complainant.

The plea must therefore be dismissed.

5. The complainant contends that the Tribunal committed a material error in finding that he was not in a situation of such dire necessity that when he signed the separation agreement his consent was not valid.

6. However, this plea cannot be entertained either since the alleged material error involved an exercise of judgment.

7. The complainant relies on the discovery of a new essential fact which he was unable to invoke in the original proceedings. However, the new fact that he invokes, namely Judgment 3090 delivered on 8 February 2012, does not afford grounds for review, since the delivery of that judgment cannot be regarded as a new fact within the meaning of the case law.

8. Lastly, the complainant's contention that he was deprived of his rights as a staff member can in no way constitute, in itself, a ground warranting the review of a judgment.

9. It follows from the foregoing that the application for review must be dismissed in accordance with the summary procedure provided for in Article 7 of the Tribunal's Rules.

DECISION

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

In witness of this judgment, adopted on 9 May 2014, Mr Claude Rouiller, Vice-President of the Tribunal, Mr Seydou Ba, Judge, and Mr Patrick Frydman, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 9 July 2014.

CLAUDE ROUILLER
SEYDOU BA
PATRICK FRYDMAN
DRAŽEN PETROVIĆ