

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

H. (No. 5)

v.

UPU

(Application for review)

120th Session

Judgment No. 3474

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3174 filed by Mr B. H. on 10 May 2013;

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 requests the review of Judgment 3174, delivered on 6 February 2013, by which the Tribunal dismissed his fourth complaint against the Universal Postal Union (UPU). The complaint was directed against the implied rejection of the claims which he had presented on 31 August 2010 in a letter to the Director-General in which he accused the latter of harassment.

2. The complainant contests the Tribunal's finding that, on that point, his fourth complaint was irreceivable because internal means of redress had not been exhausted. He submits that the Tribunal failed to take account of the fact that, in his letter of 16 February 2010,

the Director-General “ruled out the internal appeal channel”, that it transpired from an e-mail from the Head of Legal Affairs of 26 May 2010 annexed to his rejoinder that the UPU’s rules governing internal appeals did not apply to a case of harassment by the Director-General and that the parties therefore agreed that he should refer the matter directly to the Tribunal.

3. The Tribunal recalls that, according to a consistent line of precedent, pursuant to Article VI of its Statute, its judgments 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. As stated in Judgments 1178, 1507, 2059, 2158 and 2736, the only admissible grounds for review are failure to take account of material facts, a material error involving no exercise of judgement, 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 a 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 3001, under 2).

4. None of the arguments put forward by the complainant undermines the Tribunal’s finding in consideration 7 of Judgment 3174 that “the fact that a dispute involves the executive head of an international organisation in person does not exempt an official from following the internal appeal procedure prescribed by the organisation’s staff rules”. The Tribunal rendered the aforementioned judgment after examining all the evidence in the file. In consideration 3 it expressly referred to the letter of 16 February 2010 in which the Director-General merely noted that the complainant was not challenging an administrative decision. As the Tribunal did not fail to take account of material facts, the application for review must be summarily dismissed in accordance with the procedure provided for in Article 7 of its Rules.

DECISION

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

In witness of this judgment, adopted on 29 April 2015, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Claude Rouiller, Vice-President, and Mr Seydou Ba, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 30 June 2015.

(Signed)

GIUSEPPE BARBAGALLO

CLAUDE ROUILLER

SEYDOU BA

DRAŽEN PETROVIĆ