

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

FIFTIETH ORDINARY SESSION

In re TARRAB (No. 10)

(Application for review)

Judgment No. 555

THE ADMINISTRATIVE TRIBUNAL,

Considering the application (complaint No. 10) for review of Judgment No. 534, filed on 12 January 1983 by Mr. Nazmi Tarrab;

Considering Article II, paragraph 1, of the Statute of the Tribunal and Article 8, paragraph 3, of the Rules of Court;

Having examined the written evidence;

CONSIDERATIONS:

The Tribunal's judgments have the authority of *res judicata* and may be reviewed only in exceptional circumstances. Thus only a few pleas may be allowed in support of an application for review. They include an omission to take account of particular facts; a material error involving no exercise of judgment and thereby distinguishable from misappraisal of fact, which does not warrant review; an omission to pass judgment on a claim; and the discovery of a so-called "new" fact, i.e. one which the applicant discovered too late to cite in the original proceedings.

Pleas of mistake of law or a mistake in the appraisal of facts will not be allowed.

The complainant is alleging a mistake of law and a mistake of fact.

The mistake of law, to his mind, turns on failure to comply with an ILO circular, No. 180. The plea is not admissible. To allow an application for review on the grounds of the Tribunal's legal reasoning would be to permit anyone who was dissatisfied with a decision to question it indefinitely in disregard of the principle of *res judicata*. Even supposing that the Tribunal did not give due weight to the complainant's argument, the plea must fail.

The complainant detects a material error in an inconsistency he finds between Judgment No. 499 and Judgment No. 534, the one he wishes to have reviewed.

The plea fails. In Judgment No. 499 the Tribunal merely declared the complaint receivable and ordered the ILO to argue the merits. It went no further than that. The Tribunal did not deal with all the complainant's arguments, but held over a decision on the merits. Accordingly, without determining whether the plea is admissible, the Tribunal is bound in any event to reject it.

DECISION:

For the above reasons,

The application is dismissed.

In witness of this judgment by Mr. André Grisel, President, Mr. Jacques Ducoux, Vice-President, and the Right Honourable Lord Devlin, P.C., Judge, the aforementioned have hereunto subscribed their signatures as well as myself, Allan Gardner, Registrar of the Tribunal.

Delivered in public sitting in Geneva on 30 March 1983.

(Signed)

André Grisel

Jacques Ducoux

Devlin

A.B. Gardner

Updated by PFR. Approved by CC. Last update: 7 July 2000.