

**110th Session**

**Judgment No. 3000**

THE ADMINISTRATIVE TRIBUNAL,

Considering the third complaint filed by Mr R. B. B. against the International Federation of Red Cross and Red Crescent Societies (hereinafter “the Federation”) on 6 October 2009, which is an application for review of Judgment 2854;

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 seeks review of Judgment 2854, delivered on 8 July 2009. In that case, the Tribunal held that the decision of the Secretary General to terminate the complainant’s contract was a disguised disciplinary measure and ordered the Federation to pay compensation, moral damages and costs. The complainant contends in this application, as he did in his previous complaint, that he should have been reinstated in his former position or, alternatively, that he should have been awarded compensation in an amount equivalent to

what he would have received by way of salary, allowances, social security and pension rights and other entitlements had he remained in the employ of the Federation until he reached retirement age. He also seeks material and moral damages in the sum of one million Swiss francs and costs.

2. The grounds on which the Tribunal may review a judgment are set out in Judgment 442, under 3, as follows:

“an omission to take account of particular facts; a material error, i.e. a mistaken finding of fact which, unlike a mistake in appraisal of the facts, involves no exercise of judgment; an omission to pass judgment on a claim; and the discovery of a so-called ‘new’ fact, i.e. a fact which the complainant discovered too late to cite in the original proceedings.”

The ground on which review is sought must be one that would have led to a different result in the earlier proceedings.

3. In rejecting the complainant’s claim for reinstatement, the Tribunal held that, given his “unauthorised communications with the President of the Federation and members of the Governing Board, reinstatement [was] not an appropriate remedy”. The complainant contends that this finding was erroneous, referring as he did in the earlier proceedings, to his job description and the Internal Audit Charter. The Tribunal referred to those documents and held that they did not authorise the communications in question. That was a mixed finding of fact and law and, insofar as it involved factual issues, it involved an appraisal of the facts. That finding cannot now be reviewed. Implicit in the finding of “unauthorised communications” was a finding that the complainant had neither a right nor a duty to communicate with the President and members of the Governing Board. That, too, is a mixed finding of fact and law and involved an appraisal of the facts. Thus, that finding cannot now be reviewed.

4. The complainant also contends that the Tribunal erred in not finding that his termination also resulted from his direct access to the Finance Commission and his reports on violations of the Code of

Conduct for all Staff of the Federation Secretariat. The Tribunal did not overlook these matters. It simply did not appraise them in the manner for which the complainant contended. Insofar as the complainant seeks to challenge the Tribunal's conclusion that the Secretary General did not retaliate against him for having reported concerns with respect to possible violations of the Federation's Code of Conduct, he also seeks to challenge the Tribunal's appraisal of the facts.

5. To the extent that the complainant challenges the Tribunal's conclusion that there was no evidence that the Secretary General did not obtain authorisation before taking certain action, the Tribunal did not overlook the matters on which the complainant now relies. It simply concluded, as a matter of law, that the evidence did not support the allegation.

6. The complainant also raises an issue as to whether the Secretary General was his first or second-level manager. That is not a matter that could have led to a different result in the earlier proceedings.

7. The present application is an attempt to reargue matters that were fully considered by the Tribunal in the earlier proceedings with a view to obtaining a more favourable result. It raises no matter that would warrant review. Accordingly, the application must be dismissed in accordance with the summary procedure provided for in Article 7 of the Rules of the Tribunal.

## DECISION

For the above reasons,

The application is dismissed.

In witness of this judgment, adopted on 5 November 2010, Ms Mary G. Gaudron, President of the Tribunal, Mr Seydou Ba, Vice-President,

and Ms Dolores M. Hansen, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 2 February 2011.

Mary G. Gaudron  
Seydou Ba  
Dolores M. Hansen  
Catherine Comtet