

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

S. (No. 2)

v.

WHO

(Application for review)

120th Session

Judgment No. 3471

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3242 filed by Mrs R. S. on 2 July 2014;

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 applies for review of Judgment 3242, delivered on 4 July 2013. She asks that the findings made in considerations 9 to 15 of that judgment, and particularly the Tribunal's findings with respect to the actions of Dr K., be overturned. She grounds her application on new witness evidence which, she says, has come to light since the filing of her first complaint and was not considered by the Tribunal at the time when it ruled on that complaint.

2. In Judgment 3242 the Tribunal found that the complainant had not substantiated her allegation of harassment, that no error on the part of the Headquarters Grievance Panel had been demonstrated, that

her claim that the Panel did not act promptly in considering her case was unfounded, that the allegation that the Panel failed to consider evidence submitted by her was unfounded, and that her allegation of bias on the part of the Panel was “unfounded on the ground that she [had] not produced any convincing evidence to support her allegation”. Her complaint was dismissed in its entirety.

3. It is well settled that the Tribunal’s judgments may only be reviewed in exceptional circumstances and on the grounds of a failure to take account of particular facts, a mistaken finding of fact that involves no exercise of judgement, omission to rule on a claim, or the discovery of some new fact which the complainant was unable to invoke in time in the earlier proceedings. As well, the ground on which review is sought must be one that would have led to a different result in the earlier proceedings (see Judgments 1952, under 3, 3000, under 2, and 3385, under 1).

4. In this case the alleged new facts consist of two witness statements, one from the complainant, dated 17 June 2013, and the other by Dr B., a colleague of the complainant, which is dated 11 June 2013. The statement by Dr B. is not new evidence which the complainant was unable to invoke at the time of the earlier proceedings. The statement by the complainant contains essentially a rewording of her original arguments and allegations, as well as comments on Dr B.’s witness statement. She notes that Dr B. was interviewed by the Headquarters Grievance Panel and provided testimony in the original case. The complainant asserts that the Panel did not properly consider Dr B.’s testimony. She claims that other staff have suffered under Dr K. and that the Grievance Panel was flawed.

5. The Tribunal finds that the complainant’s submissions do not raise new facts, nor do they contain any element which would have led to a different result than that reached in Judgment 3242. The application is devoid of merit and will 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 for review is dismissed.

In witness of this judgment, adopted on 21 May 2015, Mr Giuseppe Barbagallo, President of the Tribunal, Mr Michael F. Moore, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 30 June 2015.

GIUSEPPE BARBAGALLO

MICHAEL F. MOORE

HUGH A. RAWLINS

DRAŽEN PETROVIĆ