

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

R.

v.

IOM

(Application for review)

130th Session

Judgment No. 4328

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 4056 filed by Ms A. R. on 24 December 2019;

Considering Articles II, paragraph 5, and VI, paragraph 1, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant, represented by her counsel, has filed an application for review of Judgment 4056, delivered in public on 26 June 2018.

2. The complainant submits that the Tribunal failed to take into account a material fact and committed a material error in basing its decision on the finding that she had not exhausted internal remedies. More specifically, the complainant asserts that she did file a Request for Review, and she points out that a copy of it was provided in the initial complaint. It is a Request for Review dated 13 January 2017 against the decision of 18 November 2016.

3. However, there is no failure to take into account a material fact nor any material error because the Tribunal did note the existence of this document in consideration 2 of Judgment 4056. The Tribunal

also noted that by a letter of 17 March 2017 the IOM Regional Director rejected that Request for Review. In fact, the complaint was dismissed in Judgment 4056 because the complainant had failed to file an Appeal against the Regional Director's decision to reject her Request for Review, as is required by paragraphs 12 to 20 of Instruction 217, entitled "Request for Review and Appeal to the Joint Administrative Review Board (JARB)" (IN/217), cited by the Tribunal in considerations 3 and 4 of Judgment 4056. As the complainant had not filed such an Appeal, which is what the Tribunal noted in consideration 5 of Judgment 4056, the requirement of Article VII, paragraph 1, of the Tribunal's Statute that the internal remedies must be exhausted before filing a complaint with the Tribunal, was not satisfied.

4. Consequently, as there is no failure to take into account a material fact nor any material error in Judgment 4056, the application for review is clearly devoid of merit and must be summarily dismissed in accordance with the procedure set out 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 13 July 2020, Mr Patrick Frydman, President of the Tribunal, Ms Dolores M. Hansen, Vice-President of the Tribunal, and Mr Giuseppe Barbagallo, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered on 24 July 2020 by video recording posted on the Tribunal's Internet page.

PATRICK FRYDMAN

DOLORES M. HANSEN

GIUSEPPE BARBAGALLO

DRAŽEN PETROVIĆ