

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

FORTY-NINTH ORDINARY SESSION

In re CHARBIN (formerly AOUAD) (No. 2)

(Application for review)

Judgment No. 510

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review filed by Mr. René Charbin (formerly Aouad) on 15 March 1982 in the case of Aouad versus the World Health Organization (WHO), the complainant's further communication of 15 April, the WHO's reply of 28 May, the complainant's rejoinder of 25 June and the WHO's surrejoinder of 21 July 1982;

Considering Judgment No. 226 delivered on 12 October 1977 by the United Nations Administrative Tribunal;

Considering Article II, paragraph 5, of the Statute of the Tribunal;

Having examined the written evidence:

CONSIDERATIONS:

1. Mr. René Aouad joined the WHO in 1970 and left on 31 March 1975. He filed two complaints at the same time, one with the United Nations Administrative Tribunal seeking a disability pension, the other with this Tribunal claiming reinstatement. The United Nations Tribunal decided on 28 April 1977, by Judgment No. 224, to adjourn the complaint before it until this Tribunal had decided on the other one. On 6 June 1977 this Tribunal dismissed the claim for reinstatement by Judgment No. 309. By Judgment No. 226 of 12 October 1977 the United Nations Tribunal held that the complainant was entitled to a disability pension.

2. Under the name of Charbin the complainant applied on 15 March 1982 for review of Judgment No. 309. The WHO contends that the application is irreceivable.

3. Although there is no provision in the Tribunal's Statute or Rules of Court for an application for the review of its judgments, such an application may be made. It will, however, be receivable only if certain conditions are fulfilled, and one is that it may not rest on facts on which the applicant might have relied years earlier. To enlarge the scope for review in that way would encourage unsuccessful complainants to make repeated attempts to get the Tribunal to review its judgments, in disregard of the principle of *res judicata*.

4. The complainant is relying on facts which date back at least to 12 October 1977, when the United Nations Tribunal delivered Judgment No. 226. He was in any event aware of those facts on receiving notice of the judgment, that is to say in 1977 or 1978 at the latest. There was nothing to prevent him from relying on those facts at the time. He may not rely on them after a lapse of some four years and his application is therefore irreceivable.

DECISION:

For the above reasons,

The application for review is dismissed.

In witness of this judgment by Mr. André Grisel, President, the Right Honourable Lord Devlin, P.C., Judge, and Mr. Héctor Gros Espiell, Deputy 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 18 November 1982.

(Signed)

André Grisel

Devlin

H. Gros Espiell

A.B. Gardner

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