

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

FIFTY-FOURTH ORDINARY SESSION

In re IDO (No. 2)

(Application for review)

Judgment No. 645

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment No. 588 filed by Mr. Fasséna Ido on 1 February 1984, the reply of the World Health Organization (WHO) of 21 March, the applicant's rejoinder of 3 April and the WHO's surrejoinder of 4 May 1984;

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

Having examined the written evidence;

CONSIDERATIONS:

1. In his complaint Mr. Ido sought the quashing of a decision of 23 November 1981 by the Director of the Onchocerciasis Control Programme in Ouagadougou to extend his appointment by no more than the three months equivalent to the period of notice. The Tribunal dismissed the complaint on 20 December 1983 and the complainant has applied for review of the judgment.

2. An application for review is an exceptional procedure and is admissible only in strictly defined circumstances, for example where specific facts have been disregarded or so-called "new" facts discovered. A new fact is a fact or an item of evidence which the applicant did not become aware of in time to be able to rely on it in the original proceedings.

The applicant was aware of the facts he now cites on 3 November 1982, when he filed his original complaint, and it is not a valid plea to allege that there are facts the Tribunal was unaware of; it was incumbent on himself to plead them.

3. Secondly, the complainant contends that the Tribunal committed mistakes of fact in considering the performance reports by his supervisor; he discusses the terms on which he was recruited; and he argues that the WHO should not have dismissed him but transferred him.

Those are not admissible pleas for review.

4. Thirdly, the complainant objects to an earlier decision, dated 26 May 1981, which he did not challenge in his original complaint.

The claim is again irreceivable. If it is treated as an application for review, the answer is that the Tribunal will not review a judgment to take account of a new claim. If the claim is treated as a new complaint it is time-barred.

DECISION:

For the above reasons,

The application is dismissed.

In witness of this judgment by Mr. André Grisel, President of the Tribunal, Mr. Jacques Ducoux, Vice-President, and the Right Honourable Sir William Douglas, Deputy Judge, the aforementioned have hereunto subscribed their signatures, as have I, Allan Gardner, Registrar.

Delivered in public sitting in Geneva on 5 December 1984.

(Signed)

André Grisel

Jacques Ducoux

William Douglas

A B. Gardner

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