

EIGHTY-SECOND SESSION

Gill v. IAEA (No. 3)

(Application for review)

Judgment 1561

The Administrative Tribunal,

Considering the application filed for review of Judgment 1478 by Mrs. Nirmal Gill on 26 April 1996 and corrected on 20 May 1996;

Considering Article II, paragraph 5, of the Statute of the Tribunal and Articles 7, paragraph 2, and 15 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. The complainant used to be an official of the International Atomic Energy Agency (IAEA). This is an application from her for review of Judgment 1478, which the Tribunal delivered on 1 February 1996 and in which it dismissed her first complaint against the Agency. That judgment ruled that she was not entitled under Rule 4.06.6 of the Provisional Staff Rules to payment by the Agency of an end-of-service allowance. It rejected her plea that paragraph (B)(iii) of the rule was unlawful for being in breach of a recommendation by the International Civil Service Commission. The Tribunal's rulings thus turned on issues of law.
2. The Tribunal declared in Judgment 442 (*in re de Villegas* No. 4) and has since often confirmed that it will decline to review a judgment on the grounds -- among others -- of an alleged mistake of law or omission to comment on pleas submitted by either of the parties. Omission to take account of some particular fact is an admissible plea for review, but it can succeed only if the omission is such as to affect the ruling.
3. The complainant contends that the Tribunal "omitted to take account of the material facts, evidence and pleadings" that she had submitted in her complaint and in her rejoinder. She believes that the Tribunal was "looking not at the original submissions but rather at a fictitious set of briefs". In accordance with Article 15 of the Tribunal's Rules she asks it to "ascertain the authenticity of the four briefs that were provided" to it.
4. Although her pleas are admissible insofar as she is alleging the disregard of material facts, the Tribunal is quite satisfied that all the pleadings and evidence that were before it in the original proceedings were authentic. It will therefore make no order under Article 15.
5. Insofar as the complainant is pleading that the Tribunal omitted to take up her arguments in support of her complaint, the plea is inadmissible.
6. Insofar as she is alleging that the Tribunal committed mistakes of law in reaching its conclusions on the merits of her case, her plea is again inadmissible.
7. The Tribunal declined to entertain the Agency's objections to receivability because her complaint failed on the merits anyway. So her arguments about receivability are irrelevant.
8. Since the application for review is clearly irreceivable or devoid of merit it must be summarily dismissed under Article 7(2) of the Rules.

DECISION

For the above reasons,

The application is dismissed.

In witness of this judgment Sir William Douglas, President of the Tribunal, Miss Mella Carroll, Judge, and Mr.

Mark Fernando, Judge, sign below, as do I, Allan Gardner, Registrar.

Delivered in public in Geneva on 30 January 1997.

William Douglas
Mella Carroll
Mark Fernando
A.B. Gardner

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