

Organisation internationale du Travail
Tribunal administratif

International Labour Organization
Administrative Tribunal

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

118th Session

Judgment No. 3333

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3134 filed by Mr A. S. on 18 October 2012, the reply of the Universal Postal Union (UPU) of 12 December 2012, the complainant's rejoinder of 15 January 2013 and the UPU's letter of 4 February 2013 informing the Registrar of the Tribunal that it did not wish to file a surrejoinder;

Considering Article II, paragraph 5, of the Statute of the Tribunal;
Having examined the written submissions;

CONSIDERATIONS

1. The complainant requests the review of Judgment 3134, delivered on 4 July 2012, by which the Tribunal set aside the decision of 11 March 2010 concerning the payment to the complainant of a withdrawal settlement in respect of the rights he had accumulated with the UPU's Provident Scheme.

2. The Tribunal remitted the case to the UPU so that it could calculate the financial loss sustained by the complainant from the failure to transfer his rights to the United Nations Joint Staff Pension

Fund, in which he had been a participant with effect from 1 November 2004.

The second paragraph of consideration 9 of the judgment concerning the remittal reads as follows:

“The case will therefore be remitted to the UPU so that it can calculate the loss sustained by the complainant through its negligence, on the basis that the sum it has to pay him by way of damages will take account of the sum of 75,504.80 Swiss francs already received by the complainant, and cannot exceed the sum claimed by him on 16 February 2010, i.e. 36,570.65 francs.”

3. The complainant contends that the Tribunal mistakenly considered that a letter of 16 February 2010 constituted a formal request “which would have frozen the scope of the dispute for the remainder of the proceedings” and that it failed to take account of the sum “of approximately 386,000 francs” that he claimed in his rejoinder in compensation for his alleged financial loss.

4. Pursuant to Article VI of its Statute, the Tribunal’s judgments are final. Accordingly, they are subject to the application of the principle of *res judicata*. While it is nevertheless accepted that they may be reviewed, such a review may only occur in exceptional circumstances and on limited grounds.

The Tribunal can entertain an application for review only where the judgment concerned failed to take account of specific facts, was based on a material error, i.e. a mistaken finding of fact which, unlike a mistake in the appraisal of the facts, involves no exercise of judgment, or failed to rule on a claim, or where the complainant discovered new facts, i.e. facts which he or she discovered too late to cite in the original proceedings. Moreover, the matter invoked as a ground for review must be likely to have a bearing on the outcome of the case (see Judgments 442, under 3, 748, under 3, 1252, under 2, 1294, under 2, 1504, under 8, 2270, under 2, 2693, under 2, and 3244, under 4).

5. The complainant's criticisms, as summarised under 3 above, challenge the Tribunal's appraisal in above-mentioned Judgment 3134 of the merits of the complaint. Hence they do not constitute grounds for review. Furthermore, as he does not identify any omission or material error on the part of the Tribunal, his application must be dismissed.

DECISION

For the above reasons,
The application for review is dismissed.

In witness of this judgment, adopted on 9 May 2014, Mr Claude Rouiller, Vice-President of the Tribunal, Mr Seydou Ba, Judge, and Mr Patrick Frydman, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 9 July 2014.

CLAUDE ROUILLER
SEYDOU BA
PATRICK FRYDMAN
DRAŽEN PETROVIĆ