

EIGHTY-SECOND SESSION

Gill v. UNIDO (No. 2)

(Application for review)

Judgment 1563

The Administrative Tribunal,

Considering the application for review of Judgment 1480 filed 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 employee of the United Nations Industrial Development Organization. This is an application from her for review of Judgment 1480, which the Tribunal delivered on 1 February 1996 on a complaint she had lodged against the Organization. That judgment ruled her complaint irreceivable insofar as she was challenging the non-renewal of her appointment: she had failed to comply with the procedure set out in Staff Rule 112.02 and so to exhaust her internal means of redress, as Article VII(1) of the Tribunal's Statute required. The Tribunal also rejected her plea that she should have her contract renewed to the end of 1994 in fulfilment of a promise which she said a senior officer of the Organization had given her.
2. The Tribunal declared in Judgment 442 (*in re de Villegas* No. 4) and has since often confirmed that it would decline to review a judgment on the grounds -- among others -- of an alleged mistake in its appraisal of facts 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 the complainant's 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. The complainant refers to parts of the case records which relate to her own version of a meeting she had with the Chief of Personnel Administration of UNIDO on 4 November 1993 and at which the subject of her private debts came up. She cites subsequent memoranda and other documents in support of her plea that she was informed at that date that her appointment would not be renewed. In Judgment 1480 the Tribunal accepted the evidence adduced by the Organization that the decision was notified to her on 24 November 1993 and that she received a "personnel payroll clearance form" on 29 November. There was no omission to consider any particular fact and the Tribunal reached its conclusion on all the evidence before it. The plea fails.
7. As for the alleged promise that her appointment would continue until the end of 1994, the Tribunal concluded on the evidence and for the reasons stated in the judgment that she had been made no such promise. She is challenging that conclusion on the grounds of misappraisal of the evidence. Since such grounds do not constitute an admissible plea for review the plea again fails.
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