

SIXTY-FIRST ORDINARY SESSION

***In re* MAUGAIN (No. 5)**

(Application for review)

Judgment 813

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 552 filed by Mr. Christian Paul André Maugain on 23 April 1986, the reply of the European Patent Organisation (EPO) of 11 July, the applicant's rejoinder of 1 August and the Organisation's surrejoinder of 15 October 1986;

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

Having examined the written evidence;

CONSIDERATIONS:

1. In the final version of his claims the complainant states that all he wants is review of Judgment 552, which the Tribunal delivered on 30 March 1983, and that, although he originally objected also to the decision the President of the EPO had taken on 26 June 1985, his purpose in doing so was to point out that the success of his application for review would mean altering the decision. The Tribunal takes the statement to denote withdrawal of that objection.

2. The Tribunal held in Judgment 552 that the material issue was whether, as the complainant alleged, the Organisation had for years shown personal prejudice towards him. That was the core of its judgment, and its ruling took account, among other things, of his staff reports for the period from 1972 to 1981 and of a report on training he had undergone at the French National Institute for Industrial Property (INPI).

In point 5 the Tribunal addressed one particular point: it held that difficulties he had described over the matter of his transfer to Munich were of a kind that inevitably arose whenever there was a change of residence and duty station; he had overcome them, and there was no injury whatever he might complain of.

3. He now puts forward his earlier pleas again and submits new items of evidence in support. Of some of them he was author or recipient; others are official papers the EPO may not be accused of having withheld. Moreover, the internal proceedings subsequent to the judgment have no bearing on whether it was correct.

The complainant's case is that his submissions on his earlier complaint omitted several pleas which he believes would have given the Tribunal a clearer picture of how he came to be transferred to Munich. That is the sort of argument that plainly adds no weight to his application.

4. The complainant shifts ground in his rejoinder: as to his transfer he contends that there are specific facts which the Tribunal overlooked and which involve no value judgment. Although that would constitute admissible grounds for review, the plea is not borne out by the facts he cites.

5. He seeks to show that the EPO are still failing to treat him impartially. Whether they are or not is immaterial to his application, and the Tribunal therefore rejects it, there being no need for oral proceedings or the disclosure of his latest staff reports.

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 Mr. Pierre Pescatore, Deputy Judge, the aforementioned have signed hereunder, as have I, Allan Gardner, Registrar.

Delivered in public sitting in Geneva on 13 March 1987.

(Signed)

André Grisel
Jacques Ducoux
Pierre Pescatore
A.B. Gardner

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