

109th Session

Judgment No. 2928

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 2707 filed by Mr M. M. on 14 May 2008 and corrected on 8 July, the reply of the International Centre for Genetic Engineering and Biotechnology (ICGEB) of 2 October, the complainant's rejoinder of 11 November and the Centre's surrejoinder of 11 December 2008;

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

Having examined the written submissions and decided not to order hearings, for which neither party has applied;

CONSIDERATIONS

1. The complainant seeks review of Judgment 2707 concerning his first complaint, in which the Tribunal held that what he described as the decision of 12 October 2006 was not a new decision, but the confirmation of an earlier decision of 2 January 2006 to abolish his post and not to renew his contract when it expired on 30 September 2006. The Tribunal also held that the letter from the complainant dated 24 January 2006 was to be construed as a request for review of the decision of 2 January and that, at the very latest, that request was denied by an e-mail of 21 April, which expressly confirmed that his contract would not be renewed. In consequence, it

was held that the time for filing an internal appeal had expired by the end of June 2006 and the complaint was dismissed as irreceivable.

2. It is well established that the Tribunal's judgments may only be reviewed in exceptional circumstances and on the grounds of "failure to take account of particular facts, a mistaken finding of fact that involves no exercise of judgement, omission to rule on a claim and the discovery of some new facts which the complainant was unable to invoke in time in the [earlier] proceedings" (see Judgment 1952, under 3). The complainant contends that Judgment 2707 involved an error of fact in that his letter of 24 January 2006 requesting review of the decision of 2 January was replied to for the first time on 12 October 2006. In support of that argument, he refers to his request that he be allowed to abandon the research he had been conducting and to commence a new programme, subsequent discussions, an offer of payment for his "dedicated services", his later acceptance of that offer, his further request for review of the decision to close down his research group, and the letter of 12 October 2006 in which the Centre indicated that it would not enter into further negotiations with him. In respect of these matters, the Tribunal stated in Judgment 2707 that "nothing occurred between 2 January and 12 October 2006 that could support the complainant's argument that there was a new decision with respect to the non-renewal of his contract". It further held that "the letter of 12 October 2006 did no more than reiterate that [the complainant] had been told of the non-renewal of his contract by letter dated 2 January 2006".

3. At best, the application challenges a mixed finding of fact and law, namely that the letter of 12 October 2006 did not constitute a new decision. To the extent that that involved a finding of fact, it was a finding of fact that involved the Tribunal's exercise of judgement. Accordingly, the complainant has not established any ground which would permit a review of Judgment 2707.

DECISION

For the above reasons,
The application is dismissed.

In witness of this judgment, adopted on 7 May 2010, Ms Mary G. Gaudron, President of the Tribunal, Mr Giuseppe Barbagallo, Judge, and Ms Dolores M. Hansen, Judge, sign below, as do I, Catherine Comtet, Registrar.

Delivered in public in Geneva on 8 July 2010.

Mary G. Gaudron
Giuseppe Barbagallo
Dolores M. Hansen
Catherine Comtet