

W. (No. 2)

v.

EMBL

(Application for review)

125th Session

Judgment No. 3897

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 3851 filed by Mr D. T. W. on 10 July 2017 and corrected on 27 July 2017;

Considering Articles II, paragraph 5, and VI, paragraph 1, of the Statute of the Tribunal and Article 7 of its Rules;

Having examined the written submissions;

CONSIDERATIONS

1. In Judgment 3851, delivered in public on 28 June 2017, the Tribunal ruled on the complainant's first complaint, challenging the rejection of his request to be paid unemployment benefits following his separation from the organization. Having noted that the complainant had filed his complaint with the Tribunal without having exhausted the EMBL's internal means of redress, the Tribunal held that the complaint was irreceivable and dismissed it.

2. In his application for review, the complainant submits that the Tribunal disregarded a material fact. He contends that what he did prior to coming before the Tribunal was sufficient to fulfil the EMBL requirements in terms of exhaustion of the internal means of redress.

He adds that the Tribunal failed to make a rigorous and impartial judgement fully addressing all of his arguments.

3. It is well settled that the Tribunal's judgments are final and carry the authority of *res judicata*. They may be reviewed only in exceptional circumstances and on strictly limited grounds. The only admissible grounds therefor are failure to take account of material facts, a material error, in other words a mistaken finding of fact involving no exercise of judgement which thus differs from misinterpretation of the facts, an omission to rule on a claim, or the discovery of new facts which the complainant was unable to rely on in the original proceedings. Moreover, these pleas must be likely to have a bearing on the outcome of the case. On the other hand, pleas of a mistake of law, failure to admit evidence, misinterpretation of the facts or omission to rule on a plea afford no grounds for review (see, for example, Judgments 3001, under 2, 3452, under 2, 3473, under 3, 3634, under 4, and 3720, under 2).

4. In his application for review, the complainant simply disagrees with the Tribunal's appraisal of the evidence and its interpretation of the law. The complainant's argument, as summarised above, demonstrates that the present application for review does not raise any of the above grounds for review and that it is in fact merely an attempt to re-open issues already settled in Judgment 3851. Accordingly, it must be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal.

DECISION

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

In witness of this judgment, adopted on 31 October 2017, Mr Giuseppe Barbagallo, President of the Tribunal, Ms Dolores M. Hansen, Judge, and Sir Hugh A. Rawlins, Judge, sign below, as do I, Dražen Petrović, Registrar.

Delivered in public in Geneva on 24 January 2018.

GIUSEPPE BARBAGALLO

DOLORES M. HANSEN

HUGH A. RAWLINS

DRAŽEN PETROVIĆ