

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

**P.**

**v.**

**PAHO**

(Application for review)

**138th Session**

**Judgment No. 4908**

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 4674 filed by Ms F. P. on 6 October 2023 and corrected on 6 November 2023;

Considering Articles II, paragraph 5, and VI, paragraph 1, of the Statute of the Tribunal and Articles 6, paragraph 5, and 7 of its Rules;

Having examined the written submissions;

#### CONSIDERATIONS

1. The complainant joined the Pan American Health Organization (PAHO) as Director of the Department of Procurement and Supply Management in January 2008 under a fixed-term appointment which was extended several times. In October 2017, she was dismissed for misconduct following an investigation into allegations of harassment. Based on the findings of that investigation, PAHO concluded that she was guilty of bullying, creating a hostile work environment and breaching confidentiality in relation to the investigation itself.

2. In Judgment 4674, delivered in public on 7 July 2023, the Tribunal ruled on the complaint in which she impugned the rejection of her internal appeal against the dismissal decision. The Tribunal found that the analysis of the Board of Appeal was flawed and that the Organization had failed to warn the complainant in due time about the unsatisfactory aspects of her management style. It therefore set aside both the impugned decision and the dismissal decision and awarded her a total of 160,000 Swiss francs in damages, as well as 10,000 francs in costs.

3. In her application for review, the complainant explains that Judgment 4674, though favourable to her, has not enabled her to clear her name and reputation, and she invites the Tribunal to make additional findings to the effect that there is no evidence to support the allegations of misconduct against her. She emphasises that the personal and professional damage caused to her is “irreversible” and should be compensated – failing reinstatement – by the award of material damages amounting to the salary and benefits she was entitled to from the day of her dismissal in October 2017 to the last day of her fixed-term appointment in December 2020, plus 50 per cent of the legal fees she has incurred. The complainant also reiterates the request she had made in the proceedings that led to Judgment 4674 to be provided with a copy of the investigation report.

4. 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. As indicated in Article 6, paragraph 5, of the Rules of the Tribunal, the only admissible grounds therefor are failure to take account of material facts, a material error (namely, 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 on which the complainant was unable to rely 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 4414, consideration 2, 3897, consideration 3, 3719, consideration 4, 3634, consideration 4, 3473, consideration 3, 3452, consideration 2, and 3001, consideration 2).

5. On the form that she submitted with her application, the complainant indicates that she seeks a review of Judgment 4674 on two grounds, namely, failure to take account of material facts and omission to rule on a claim. However, her submissions do not support a conclusion that the judgment should be reviewed on either of these grounds.

6. It is true that in Judgment 4674 the Tribunal did not address the complainant's pleas disputing, and the pleas of PAHO asserting, that she engaged in all or most of the conduct on which the charges against her were based and this was established beyond reasonable doubt. However, as was clearly stated in consideration 6 of the judgment, the Tribunal considered it unnecessary to do so. According to the case law cited above, omission to rule on an argument does not afford grounds for review. This is because the Tribunal would otherwise be required to state its position expressly on all pleas, even if they were plainly of no relevance to the case (see Judgments 4440, consideration 7, 3478, consideration 5, and the case law cited therein).

7. To the extent that the application is based on an alleged failure to rule on a claim, suffice it to note that in Judgment 4674 the Tribunal dealt specifically with each of the claims for relief formulated by the complainant, even though some were rejected.

8. It ensues from the foregoing that the complainant's application for review, which does not raise any of the limited grounds for review mentioned in consideration 4 above, is clearly irreceivable and will therefore be summarily dismissed in accordance with the procedure provided for in Article 7 of the Rules of the Tribunal. The complainant's ancillary requests for disclosure of the investigation report and for additional compensation must be rejected accordingly.

DECISION

For the above reasons,

The application for review is dismissed.

In witness of this judgment, adopted on 24 May 2024, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 8 July 2024 by video recording posted on the Tribunal's Internet page.

PATRICK FRYDMAN

JACQUES JAUMOTTE

CLÉMENT GASCON

MIRKA DREGER