

Registry's translation, the French text alone being authoritative.

SIXTIETH ORDINARY SESSION

In re NESIC (No. 4)

(Application for review)

Judgment No. 796

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment No. 772 filed by Mr. Cedomir Nestic on 15 August 1986;

Considering Article II, paragraph 1, of the Statute of the Tribunal and Article 8, paragraph 3, of the Rules of Court;

Having examined the written evidence;

CONSIDERATIONS:

1. In Judgment 661, which it delivered on 19 June 1985, the Tribunal dismissed a complaint from Mr. Nestic asking that his claims be submitted to the General Conference of the International Labour Organisation, that the election of the Director-General be set aside and that he be awarded damages. The Tribunal held the complaint to be irreceivable because his claims had no connection with his former appointment. In Judgment 709, on 14 November 1985, the Tribunal refused to forward an extraordinary application for review addressed by him to the General Conference. In Judgment 772 of 12 June 1986 the Tribunal dismissed a third complaint for the reasons it had given in Judgment 661 and declined to give advice on the body competent to hear his claims.

The complainant filed on 15 August 1986 a brief entitled "Objections to Judgment 772" which may be treated as an application for review of that judgment.

2. The complainant objects that the Tribunal failed to give reasons for its refusal to order an exchange of briefs and oral proceedings. Whether and when a procedural flaw will warrant review is immaterial. The point is that Judgment 772 upholds the reasoning in Judgment 661 and it would therefore have served no purpose either to invite a reply from the Organisation or to order oral proceedings.

3. The complainant's second plea is that it is wrong to deny a former official the right to make a claim that does not arise out of his appointment. But that is an issue of law, and so the Tribunal's ruling, even if wrong, is not subject to review. In any event it is correct for the reasons set out in Judgment 661 and on grounds of common sense as well: a complainant may not meddle in matters that are none of his business and that concern only the Organisation he has left.

4. The last objection is to the refusal of advice on the competent body. Again, that is an issue of law and one on which the Tribunal will not reconsider its ruling in the context of an application for review. Besides, the complainant's own statement that he may not apply to anyone but the Tribunal shows that he did not need the advice the Tribunal refused him.

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 Tun Mohamed Suffian, Judge, the aforementioned have signed hereunder, as have I, Allan Gardner, Registrar.

Delivered in public sitting in Geneva on 12 December 1986.

(Signed)

André Grisel

Jacques Ducoux

Mohamed Suffian

A.B. Gardner

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