

PROVISIONAL TRANSLATION

ADMINISTRATIVE TRIBUNAL

Judgement No. 822

Case No. 776: OUDEH

Against: The Commissioner General
of the United Nations
Relief and Works Agency
for Palestine Refugees in
the Near East

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Mikuin Leliel Balanda, Vice-President, presiding;

Mrs. Deborah Taylor Ashford; Mr. Julio Barboza;

Whereas, on 20 September 1996, Hassan Ahmed Oudeh, former staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, hereinafter referred to as UNRWA, filed an application, in accordance with former article 12 (now article 11) of the Statute of the Tribunal, requesting a revision of Judgement No. 708, rendered by the Tribunal on 28 July 1995;

Whereas the application contained conclusions which read, inter alia, as follows:

"... new evidence, which [the Applicant recently received] from those who accompanied him to the Education Department in order to apply for reinstatement ... The ... Tribunal is [requested to verify] the truth of the evidence in the manner warranted by the Tribunal's Statute and Rules and to reconsider the Judgement accordingly."

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Whereas the Respondent filed an answer on 19 December 1996;

Whereas the Applicant filed written observations on 10 April 1997 in which he requested the Tribunal to hear witnesses, in accordance with article 10, paragraph 3, of the Rules of the Tribunal;

Whereas the facts of the case were stated in Judgement No. 708;

Whereas the Applicant's principal contention is:

The document submitted by the Applicant proves that he applied for re-employment in 1988, in other words within the prescribed three-year time-limit. That is a new fact which justifies the revision of Judgement No. 708.

Whereas the Respondent's principal contention is:

The acquisition of the document submitted by the Applicant does not constitute the discovery of a "fact" as provided for in former article 12 (now article 11) of the Statute of the Tribunal. Even if it were deemed to constitute a new fact, the existence of the document was not unknown to the Applicant at the time the judgment was given. The Applicant does not therefore fulfil the preconditions set out in former article 12 (now article 11) for the revision of a judgement.

The Tribunal, having deliberated from 8 to 25 July 1997, now pronounces the following judgement:

I. The Applicant, a former staff member of UNRWA at the time of the facts, requests a revision of Judgement No. 708 of 28 July 1995. In that Judgement, the Tribunal rejected his request to reapply for re-employment.

II. In support of his application, the Applicant invokes as a new fact the discovery of a letter signed by two persons stating that they had accompanied him to the UNRWA office when he went there to apply for re-employment.

The Respondent requests that this application should be rejected because it

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does not meet the conditions set out in former article 12 (now article 11) of the Statute of the Tribunal.

III. The Tribunal finds that, in terms of the provisions of former article 12 (now article 11) of its Statute, the request for revision of a judgement should be supported by "the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence".

IV. In the case in question, the Applicant is scarcely in a position to claim now that he was unaware that two persons had accompanied him to the UNRWA office when he went there to apply for re-employment. He could have stated that fact at the time of the prior deliberations that led to Judgement No. 708, but he did not do so. The Tribunal notes that the Applicant thus attempts to present new evidence which he could have used in the earlier proceedings. Consequently, there is an attempt to reopen proceedings which had already led to the pronouncement of a definitive judgment.

V. It follows that this application, which does not meet the conditions required for revision, is rejected. (Judgements No. 742, Maqari (1996); No. 751, Sa'adiyeh (1996); No. 752, Bakr et al. (1996)).

VI. For the foregoing reasons, the Tribunal rejects the application, including the request for the hearing of witnesses.

(Signatures)

Mikuin Leliel BALANDA
Vice-President, presiding

Deborah Taylor ASHFORD
Member

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Julio BARBOZA

Member

Geneva, 25 July 1997

R. Maria VICIEN-MILBURN
Executive Secretary

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