



Administrative Tribunal

Distr.
LIMITED

AT/DEC/970
17 November 2000

ORIGINAL: ENGLISH

ADMINISTRATIVE TRIBUNAL

Judgement No. 970

Cases No. 820: MANSOUR
No. 880: MANSOUR

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. Mayer Gabay, First Vice-President, presiding; Mr. Julio Barboza, Second Vice-President; Mr. Kevin Haugh;

Whereas, on 14 June 1999, Khalil Mohammed Mansour, a former staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter referred to as UNRWA or the Agency), filed an application in which he requested, in accordance with article 11 of the Statute of the Tribunal, the revision of Judgement No. 894, rendered by the Tribunal on 20 November 1998;

Whereas the application contained pleas which requested the Tribunal to:

“... ”

Annul the two deferrals of my salary annual increment of June 10, 1993 and of September 20, 1993;

Annul the termination of my appointment of March 6, 1994 and return to status quo ante separation and deferrals, and reinstate me in former post as Vehicle Maintenance Officer, SAR [Syrian Arab Republic], with clear statement;

Annul the contested new post description. Otherwise the Agency is to make amend[sic] to meet the standard of new responsibilities added to my ex-job i.e. Vehicle Maintenance Officer, SAR. That is left to the discretion of the Tribunal;

Consider the period from March 7, 1994 until my return to my ex-job as a working days period. With complete rights in promotion and other administrati[ve] actions.

The Agency is to issue a letter of apology for the harm and unfair measures wrongly taken against me; and

\$ 50,000 (fifty thousand) US dollars to be paid in compensation for the moral and financial harm, injustice and prejudice which my family and I suffered.”

Whereas the Respondent filed his answer on 6 February 2000;

Whereas the facts in the cases were set forth in Judgement No. 777.

Whereas the Applicant’s principal contentions are:

1. The Tribunal failed to consider all relevant evidence in Judgements No. 777 and No. 894.
2. A review of the evidence will result in a revised decision on the merits in the Applicant’s favor.

Whereas the Respondent’s principal contentions are:

1. The Applicant has failed to identify any new facts or evidence of such a nature as to be a decisive factor unknown to the Tribunal at the time it rendered Judgements No. 777 and No. 894.
2. The application for revision is merely an attempt to seek a reconsideration of his applications in the prior cases.

The Tribunal, having deliberated from 13 to 17 November 2000, now pronounces the

following judgement:

I. The Applicant has requested a revision of Judgement No. 894. This judgement was rendered following a request by the Applicant for revision of Judgement No. 777.

II. As is set out in article 11 of the Statute of the Tribunal:

“The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgment on the basis of 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.”

III. It is essential for a revision to be successful that a new fact has been discovered, which is of such importance that, had the Tribunal known of its existence at the time it rendered the judgement, the outcome would have been different.

IV. In the present case, the Applicant requests the Tribunal to order production of two documents. The Tribunal notes that he had requested production of the same two documents, amongst others, in his earlier application in 1997. As can be seen from paragraph IV of Judgement No. 894, the Tribunal determined in that judgement which documents were “potentially relevant” and only reviewed those documents. Thus, it has already determined that the two documents in question are not “potentially relevant”.

V. The Tribunal notes that the “new” fact adduced by the Applicant is not a fact as stipulated in article 11. Consequently, the Applicant’s request does not fulfil the requirements for a revision. The Applicant requests the Tribunal to revoke its earlier finding that these documents are not relevant to the case and on that basis to reconsider and change its former judgement. In the view of the

Tribunal, that would imply a revision not contemplated in the Statute (discovery of a new and decisive fact).

VI. For the foregoing reasons, the Tribunal rejects the application in its entirety.

(Signatures)

Mayer GABAY
First Vice-President, presiding

Julio BARBOZA
Second Vice-President

Kevin HAUGH
Member

New York, 17 November 2000

Maritza STRUYVENBERG
Executive Secretary