



ADMINISTRATIVE TRIBUNAL

Judgement No. 1317

Case No. 1301

Against: The Secretary-General
of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,
Composed of Ms. Jacqueline R. Scott, First Vice-President, presiding; Mr. Dayendra Sena Wijewardane,
Second Vice-President; Mr. Julio Barboza;

Whereas, on 7 June 2005, a former staff member of the United Nations, filed an Application in which she requested, in accordance with article 12 of the Statute of the Tribunal, the revision of Judgement No. 1212, rendered by the Tribunal on 24 November 2004;

Whereas at the request of the Respondent, the President of the Tribunal granted an extension of the time limit for filing a Respondent's answer until 30 November 2005;

Whereas the Respondent filed his Answer on 7 November 2005;

Whereas the Applicant filed Written Observations on 13 December 2005;

Whereas the facts in the case were set forth in Judgement No. 1212.

Whereas the Applicant's principal contentions are:

1. The Tribunal erred in relying upon Appendix F to the Staff Rules.
2. The Tribunal engaged in "deliberately misleading handling of facts" in Judgement No. 1212. Its "handling of both legal and mathematical evidence makes its Judgement unsubstantiated and puts in question its fairness".
3. The Tribunal did not meet the requirement of article 11, paragraph 3, of its Statute in Judgement No. 1212.
4. The issue of the teachers' annual leave needs to be resolved.

Whereas the Respondent's principal contention is:

The Applicant failed to introduce any fact of a decisive nature which was unknown to the Tribunal and to the Applicant at the time Judgement No. 1212 was rendered and, accordingly, her request for a revision of Judgement is without merit.

The Tribunal, having deliberated from 3 to 27 July 2007, now pronounces the following Judgement:

I. This Application is an attempt at requesting revision of Judgement No. 1212, albeit an attempt which fulfils none of the requirements of article 12 of the Statute of the Tribunal. It is really a pity that the Applicant could not, or would not, understand the simple text of article 12, but chose to present a petition for revision of judgement without even trying to adduce the existence of a new fact as required by that article in order to grant the Tribunal jurisdiction to revise its own Judgement.

II. In a didactic effort, the Tribunal will recite the essential material with respect to revision cases. Article 12 of the Tribunal's Statute reads as follows:

“The Secretary-General or the Applicant may apply to the Tribunal for a revision of a judgement 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. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement. Clerical or arithmetical mistakes in judgements, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.”

The case law of this Tribunal has been extremely clear regarding the powers of revision. In particular, it has strictly interpreted the provisions of article 12 and has not permitted disgruntled litigants to abuse their rights thereunder in an effort to appeal judgements rendered by the Tribunal. In Judgement No. 894, *Mansour* (1998), for example, the Tribunal held that “[n]o party may seek revision of the judgement merely because that party is dissatisfied with the pronouncement of the Tribunal and wants to have a second round of litigation”. In Judgement No. 1201, *Berg* (2004), the Tribunal noted that the Applicant sought

“‘another bite at the cherry’, another chance to litigate the same issues which have been settled in the previous litigation. The jurisprudence of the Tribunal is clear that he cannot do this, as stated in Judgement No. 503, *Noble* (1991):

‘This request seeks to relitigate factual issues involved in the proceeding which led to that judgement and which could and should have been raised by the Applicant in that proceeding ... It is plainly frivolous for the Applicant to attempt to relitigate factual issues in the guise of seeking an interpretation of a Tribunal judgement.’

This principle also applies when the case at hand is one for a revision of judgement.”

Finally, in Judgement No. 1164, *Al-Ansari et al.* (2004), the Tribunal held that it “has no jurisdiction to re-open cases in which judgement has been rendered based on mere bald assertions ... that the original Judgements were works of incompetence and were wrong”.

III. A careful reading of the Application and other related papers presented by the Applicant reveals not the slightest effort to introduce her claim in accordance with the requirements of article 12. Indeed, it provides an eloquent example of what the jurisprudence of the Tribunal has considered totally irrelevant in an application for revision of judgement. In this regard, the Tribunal recalls its Judgement No. 1200, *Fayache* (2004), in which it held:

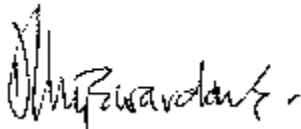
“the Tribunal finds that the Application for revision of Judgement contains no new fact of the sort contemplated by article 12. Indeed, as the Respondent correctly points out, the Application does not even purport to rely upon article 12. It is, in reality, a restatement of the claims originally asserted by the Applicant, embellished with unwarranted attacks and conspiracy theories. This simply cannot provide a basis for revision of Judgement, which is not a means of reopening issues that have been settled definitively and which are thus *res judicata*. (See Judgement No. 556, *Coulibaly* (1992).)”

IV. In view of the foregoing, the Application is rejected in its entirety.

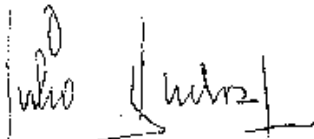
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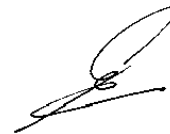
Jacqueline R. **Scott**
First Vice-President



Dayendra Sena **Wijewardane**
Second Vice-President



Julio **Barboza**
Member



Maritza **Struyvenberg**
Executive Secretary

Geneva, 27 July 2007