United Nations AT/DEC/1351

Administrative Tribunal

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ADMINISTRATIVE TRIBUNAL

Judgement No. 1351

Case No. 1339 Against: The Secretary-General of the United Nations

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Spyridon Flogaitis, President; Ms. Jacqueline R. Scott, Vice-President; Mr. Julio Barboza;

Whereas, on 25 November 2005, a former staff member of the United Nations, filed an Application in which he requested, in accordance with article 12 of the Statute of the Tribunal, revision of Judgement No. 1247, rendered by the Tribunal on 22 July 2005;

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 19 May 2006;

Whereas the Respondent filed his Answer on 24 April 2006;

Whereas, on 10 October 2006, the Applicant filed Written Observations;

Whereas the facts in the case were set forth in Judgement No. 1247.

Whereas the Applicant's principal contentions are:

1. The Tribunal's mistaken belief that he was appointed under the 200 Series of the Staff Regulations and Rules instead of the 100 Series adversely affected the consideration of his case.

2. As he was not supplied with copies of documents submitted by the Respondent to the Tribunal testifying that "the abolition of his post formed part of a general restructuring plan necessitated by a drastic cut in resources", he was unable to put forward his submissions on this issue.

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. 1247 was rendered and, accordingly, his request for revision of Judgement is without merit.

The Tribunal, having deliberated from 24 October to 21 November 2007, now pronounces the following Judgement:

I. On 25 November 2005, the Applicant filed an Application for revision of Judgement No. 1247, under article 12 of the Tribunal's Statute. Article 12 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."

II. After careful reading of the Application, it is clear that no new fact is alleged by the Applicant, let alone one of such a decisive nature that it would warrant revision of the Judgement. He limits himself to remarking that the Tribunal made a mistake in paragraph I of Judgement No. 1247, where it states that "[t]he present case concerns the non-renewal of a fixed-term contract under the 200 Series following the abolition of a post". In essence, he argues that he actually had an appointment under the 100 Series and that this mistake adversely affected the consideration of his case because the Tribunal allegedly, in its Judgement, seems to have placed considerable importance on the fact that the contract in question was under the 200 Series. In the Tribunal's view, it does not make the slightest difference whether the Applicant served under a 100 or a 200 Series appointment where the revision of judgement is concerned: the important point is that he had contracts for limited periods that did not carry the right of renewal. Whether under the 100 or 200 Series, the outcome would have been exactly the same in this case.

The Tribunal recalls in this connection Judgement No. 1317 (2006), paragraph III, where it found that:

> "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."

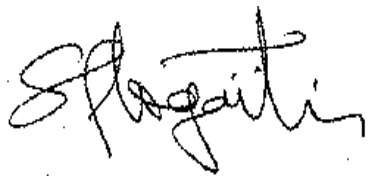
III. In the opinion of the Tribunal, the Applicant makes a request for correction rather than for revision of judgement. The material error to which he refers, namely that he served under a 100 rather than 200 Series appointment, may be corrected by the Tribunal "at any time ... either of its own motion or on the application of any of the parties" and it sees no reason not to make this correction.

IV. In view of the foregoing, the Tribunal:

1. Decides to replace the words “200 Series” in paragraph I on page 5 of Judgement No. 1247 by the words “100 Series”; and,

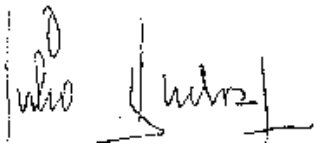
2. Rejects all other requests.

(*Signatures*)



Spyridon **Flogaitis**
President

Jacqueline R. **Scott**
Vice-President



Julio **Barboza**
Member

New York, 21 November 2007

Maritza **Struyvenberg**
Executive Secretary