

Organisation internationale du Travail  
*Tribunal administratif*

International Labour Organization  
*Administrative Tribunal*

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

**R.**

**v.**

**FAO**

(Application for review)

**139th Session**

**Judgment No. 4946**

THE ADMINISTRATIVE TRIBUNAL,

Considering the application for review of Judgment 4857 filed by Mr R. R. R. on 3 August 2024, and the additional information provided on 10 August and 24 August 2024;

Considering Articles II, paragraph 5, and VI, paragraph 1, of the Statute of the Tribunal and Articles 6, paragraph 5, and 7 of its Rules;

Having examined the written submissions;

#### CONSIDERATIONS

1. The complainant, who was engaged by the Food and Agriculture Organization of the United Nations (FAO) as a national consultant in organisation and administrative support for the locust control campaign at the FAO Representation in Madagascar, from 1 June 1997 to 11 January 1998, filed an application for review of Judgment 4857, delivered in public on 8 July 2024. In that judgment, the Tribunal dismissed his complaint against the implied decision of rejection which, according to him, arose from the FAO's failure to reply to a claim for compensation that he had submitted to it by a letter of 28 September 2020. Specifically, the complaint was dismissed on the grounds that the Tribunal was not competent to hear it since it was not established that the complainant, when he worked for the FAO, had the

status of an official of the Organization, or of a consultant of a similar category.

2. It should be recalled that the Tribunal's judgments, in accordance with Article VI of its Statute, are "final and without appeal" and have *res judicata* authority. They may therefore be reviewed only in exceptional circumstances and on strictly limited grounds (see, for example, Judgments 4440, consideration 2, and 3899, consideration 3). Under Article 6, paragraph 5, of the Tribunal's Rules, the only admissible grounds for review are failure to take account of material facts, a material error (namely a mistaken finding of fact involving no exercise of judgement), failure to rule on a claim, or the discovery of new facts on which the complainant was unable to rely in the original proceedings. Moreover, these pleas must be such as to have been likely to have a bearing on the outcome of the case. Pleas of a mistake of law, failure to admit evidence, misinterpretation of the facts or omission to rule on a plea, on the other hand, afford no grounds for review (see, for example, Judgments 4906, consideration 4, 4327, consideration 3, 3473, consideration 3, 3452, consideration 2, and 3001, consideration 2).

3. In support of his application, the complainant submits that Judgment 4857 is flawed because the Tribunal failed to take account of material facts, which he regards, in his written submissions, as an "error of fact"\*.

4. According to the complainant, this error of fact resulted from the fact that the Tribunal considered in Judgment 4857 that "the FAO Manual did not, in any event, exist at the material time"\*. However, there is no such statement in the judgment and the alleged quotation is inaccurate. Judgment 4857, consideration 9, states that:

"The extract from the Handbook for FAO Representatives [...] does not refute these findings, particularly as the Handbook did not, in any event, exist at the material time."

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\* Registry's translation.

5. The passage cited does not refer to the FAO Manual but to another document developed by the Organization, of a different nature, namely the Handbook for FAO Representatives.

The Tribunal can only register its surprise with regard to the complainant's confusion, since it was the complainant himself who had placed the extract from the Handbook for FAO Representatives on file and his written submissions suggest that he clearly understood the difference between the two manuals in question.

6. In fact, the Tribunal not only in no way questioned, in Judgment 4857, the existence of a FAO Manual at the material time but cited it on several occasions and based its reasoning on some of its provisions. Furthermore, the Tribunal made a request for further submissions seeking the production of copies of the versions of this manual in force between June 1997 and January 1998, and the FAO provided the versions applicable at the time, as preserved in its archives.

7. It must therefore be concluded that the complainant is mistaken in asserting that the Tribunal committed an error of fact in this regard.

8. The complainant also alleges, in support of his application, that he discovered new facts, namely that he was the victim, during the investigation, of an "act of fraud by stealth combined with a breach of good faith on the part of the Organization"\* . Specifically, he maintains that the FAO misled the Tribunal by presenting, on the one hand, the version of Section 319 of the FAO Manual in force at the material time while asserting, on the other hand, that this manual did not exist at that time, which would thus constitute a contradiction proceeding, in his view, from a deliberate deception. Again, the source of this argument is the complainant's confusion between the FAO Manual and the Handbook for FAO Representatives. Consequently, the alleged contradiction has no basis in reality and the plea in this regard is irrelevant.

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\* Registry's translation.

9. The complainant further challenges an observation, in consideration 13 of the impugned judgment, that even if the Tribunal had been competent to rule on the complaint, the complaint would in any event have been irreceivable for failure to exhaust internal means of redress. However, aside from the fact that the pleas put forward in this respect are clearly unfounded, it should be noted that the grounds set out in the aforementioned consideration were abundantly so, since, as indicated in the judgment, the Tribunal's lack of jurisdiction was sufficient to cause the complaint to be dismissed. The challenge to the observation in question is therefore not, in any event, likely to exert any influence whatsoever on the outcome of the case.

10. Lastly, the complainant recasts, in his application, the arguments put forward in the original case which the Tribunal dismissed in Judgment 4857. But the legal considerations and the appraisal of the facts in which the Tribunal engages in a judgment cannot be challenged in an application for review (see, for example, Judgments 4440, considerations 4 and 5, and 3984, considerations 5 and 6).

11. It follows from all the foregoing that the application for review filed by the complainant is clearly unfounded and must, therefore, be summarily dismissed in accordance with the procedure set out in Article 7 of the Rules of the Tribunal.

#### DECISION

For the above reasons,

The application for review is dismissed.

In witness of this judgment, adopted on 15 November 2024, Mr Patrick Frydman, President of the Tribunal, Mr Jacques Jaumotte, Judge, and Mr Clément Gascon, Judge, sign below, as do I, Mirka Dreger, Registrar.

Delivered on 6 February 2025 by video recording posted on the Tribunal's Internet page.

*(Signed)*

PATRICK FRYDMAN    JACQUES JAUMOTTE    CLÉMENT GASCON

MIRKA DREGER