
UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2014/056

Judgment No.: UNDT/2015/064

Date: 6 July 2015

Original: English

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6. On the same day, the Geneva Registry emailed the Applicant replying that “[t]here is no UNDT procedure to re-investigate the matter” and that, “[a]s [he] already [knew], the UNDT Judgment in [his] case [could] be appealed to the [UNAT]”.

7. By email of 3 November 2011 to the Geneva Registry, the Applicant reiterated the above-mentioned “material discrepancies” and requested “the immediate suspension of action of [his] case and [to] take an immediate re-investigation as granted by the UNDT Rules of Procedure”.

8. On the same day, the Geneva Registry responded to the Applicant that “Judgment No. UNDT/2011/181 ... [was] final and [had] the effect of *res judicata*”. The Geneva Registry reiterated to the Applicant that if he wanted “to contest [the] Judgment, [he] may file an appeal with the Appeals Tribunal” and that, however, if he “[wished] to file a new formal application with the [UNDT],

12. By email of that same date, the Geneva Registry replied to the Applicant recalling previous communications with him, and drawing his attention to art. 29 of the Tribunal's Rules of Procedure governing applications for revision of judgments. The Geneva Registry reiterated, in closing, that the Applicant had to file his application through the eFiling portal, and provided him, again, with the contact details of the portal's support team.

13. By email of 23 October 2012, the Applicant requested "a revision of Judgment UNDT/2011/181" providing what he believed to be "decisive evidence

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e. The Respondent and the Judge failed to prove that the Applicant has made any negative statement on the Complainant; furthermore, the counter-allegation to the complaint against the Applicant was proved and materially established at the UNDT public hearing of Case No. UNDT/GVA/2011/047 by the Complainant's "attempt of falsification with denial, reversal and admission of her physical act of sexual harassment";

f. The former Judge in Case No. UNDT/GVA/2011/047 explicitly admitted the breach of the Applicant's due process rights by "confessing [in Judgment UNDT/2011/181] that he would only consider ... partial evidence, implying that he would omit the countering and/or contradicting evidence"; and

g. Order No. 121 (GVA/2014) contains new decisive material fact for it states that the content of the audio file of the hearing in Case No. UNDT/GVA/2011/047 was well known to the Tribunal; such content clearly shows the perjury under oath and since it is decisive, it cannot be set aside simply because it is past evidence.

28. The Respondent's principal contentions are:

a. The Applicant has not met the requirements for revision of a Judgment under art. 12.1 of the Tribunal's Statute; his dissatisfaction with the findings of fact made by the Dispute Tribunal does not constitute the discovery of a new fact; as per settled jurisprudence, a party may not seek revision of a judgment merely because of dissatisfaction with a judgment and/or a wish to have a second round of litigation;

b. The Applicant had a right to appeal Judgment UNDT/2011/181 to the Appeals Tribunal under art. 11.3 of the Statute of the Dispute Tribunal and he chose not to exercise it;

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32. The “decisive fact” being relied upon by the Applicant is the alleged perjury of the Complainant, who had filed a grievance leading to the Applicant’s dismissal that the latter challenged in Case No. UNDT/GVA/2011/047. The

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