



C.D.

v.

Chairperson of the African Union Commission

FOR APPLICANT : *Pro se*

FOR RESPONDENT: Office of the Legal Counsel, African Union Commission

ORDER

Procedural and Factual History

1. The Applicant filed an application on 8 December 2011 claiming multiple violations of the Staff Regulations and Rules, including wrongful termination, discrimination and unlawful withdrawal of an offer of appointment supposedly extended to him by the Respondent. We found his application not receivable and dismissed it on 15 September 2017 because he had not requested administrative review of the contested decision before filing his application with the Tribunal.¹
2. On 17 March 2018, the Applicant filed the instant request under Articles 20 and 21 of Administrative Tribunal Statute seeking reconsideration of our judgment. He argues that we: (a) overlooked his employment with the Organization from March 2009 to May 2011; and (b) we misapplied the persuasive jurisprudence we referenced in our judgment.
3. The Tribunal invited the Respondent to file his response. The Respondent did not file a response.

Legal Standards

4. Judgments of the Tribunal are final.² The doctrine of *res judicata* dictates that once the Tribunal has fully adjudicated an application, it cannot be re-litigated.³ We note the purpose of *res judicata* is to prevent abusive and duplicative litigation and maintain finality of proceedings.
5. Notwithstanding the importance of achieving finality of administrative proceedings, our Statute provides for limited grounds for review and annulment of judgments.⁴ We intend to exercise this authority sparingly in exceptional circumstances when persuaded that the application before us is truly exceptional and supported by compelling evidence and arguments.

¹ *C.D. v. Chairperson*, AUAT/2017/001.

² Administrative Tribunal Statute Art. 17(vi)

³ ILOAT, Judgment No. 2993; ILOAT Judgment No. 1824 ; *In re Sethi* (No. 4); Judgment No. 2010-UNAT-026bi.

⁴ Administrative Tribunal Statute Arts. 20 and 21.

6. A party may seek review of judgment when he or she has discovered new and decisive facts previously unknown to the party or the Tribunal.⁵ Such application must state the new facts to be proved and must be supported by compelling new evidence.
7. A party may also request annulment of an award where: (a) the Tribunal has manifestly exceeded its competence or failed to exercise jurisdiction vested on it; (b) there has been a serious departure from a rule of procedure; (c) the Tribunal has erred on a question of law [as] to the Charter of OAU and the Statute; (d) the rules of natural justice were not observed.⁶

Discussion

Application under Article 20

8. The Applicant argues we did not consider his employment with the Organization from March 2009 to May 2011. He refers us to the underlying record where he has averred this fact in his application.⁷ In the instant request, the Applicant does not proffer new facts or evidence as required under Article 20. Rather he re-argues the same facts we previously considered in full prior to issuing our judgment. His request does not satisfy Article 20.

Application under Article 21

9. The Applicant's request does not establish any of the grounds enumerated under Article 21. We find his arguments to be duplicative of those already advanced before us during the hearing of his application. His present request, even viewed in the light most favourable to him, would not have convinced us to change our ultimate determination that his application is not receivable. We clarify that based on the record before us, we were not satisfied that the Respondent extended him an offer of appointment in late 2010. We did not, therefore, find it necessary to address whether the Respondent improperly rescinded the alleged offer and whether the Applicant met the definition of a staff member in relation to that claim.
10. Accordingly, the Tribunal finds that the Application does not satisfy any of the requirements for review or annulment of our judgment in this matter.

Orders

11. The Applicant's requests under Articles 20 and 21 are denied.

Date: 18 June 2018

/s/

HONORABLE JUSTICE ANDREW K. C. NYIRENDA SC, PRESIDENT

/s/

HONORABLE JUSTICE SHAHEDA PEEROO

/s/

HONORABLE JUSTICE ALIOU BA

Secretary: _____



⁵ Administrative Tribunal Statute Art. 20.

⁶ Administrative Tribunal Statute Art. 21.

⁷ Application, para 1.3.