



M.Z.L.

v.

Chairperson of the African Union Commission

FOR APPLICANT : *Pro se*

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

BEFORE : Hon. Andrew K.C. NYIRENDA, Hon. Shaheda PEEROO and Hon. Salufu S. MAINGA¹

ORDER

Procedural and Factual History

1. On 23 February 2017, the Applicant, a former Clerk of the Pan African Parliament (PAP), filed an application contesting the termination of his regular appointment.
2. In a *per curiam* judgment issued on 2 July 2018, we found his application not receivable and dismissed it because the application was filed out of time.²
3. On 14 December 2018, the Applicant filed the instant request under Articles 20 and 21 of Administrative Tribunal Statute seeking reconsideration of our judgment.
4. In his request for reconsideration, the Applicant claims that we: (a) misinterpreted the provisions of the Statute specific to the filing timelines when we refused to excuse his late-filed application; and (b) should reopen his application on the basis of new previously unavailable evidence regarding staff recruitment practices at the Pan African Parliament.
5. The Tribunal invited the Respondent to file his response. The Respondent did not file a response.

Legal Standards

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

¹ Judge Sylvester Salufu Mainga was sworn in as African Union Administrative Tribunal Judge on 10 July 2019. He joins Judges Nyirenda and Peeroo in this judgment to permit disposition of this matter under Article 4(i) of the Tribunal's Statute.

² *M.Z.L. v. Chairperson*, AUAT/2018/001.

³ Administrative Tribunal Statute Art. 17(vi).

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

⁵ Administrative Tribunal Statute Arts. 20 and 21.

exceptional circumstances when persuaded that the application before us is truly exceptional and supported by compelling evidence.

8. A party may seek review of judgment when he or she discovers new and decisive facts previously unknown to the party or the Tribunal.⁶ Such application must state the new facts to be proved and must be supported by compelling new evidence.
9. 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.⁷

Discussion

Application under Article 20

10. The underlying application was denied on the grounds of receivability. The Tribunal did not consider the merits of the application. Consequently, the purported new evidence pertaining to the substantive merits of the application cannot convince us to change our ultimate conclusion that the application was not receivable.

Application under Article 21

11. The Applicant argues that that the Tribunal failed to properly consider the circumstances of his delayed filing and that we misinterpreted the Statute of the Administrative Tribunal. We disagree. Article 13 of the Statute together with Staff Rule 62.1 set forth mandatory filing timelines, which the Applicant was unable to meet.
12. Accordingly, the Tribunal finds that the present application does not satisfy any of the requirements for review or annulment of our judgment in this matter.

Orders

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

Date: 10 September 2019

/signed/

Hon. Andrew K. C. NYIRENDA, President
Hon. Shaheda PEEROO
Hon. Sylvester S. MAINGA

Secretary: _____



⁶ Administrative Tribunal Statute Art. 20.

⁷ Administrative Tribunal Statute Art. 21.