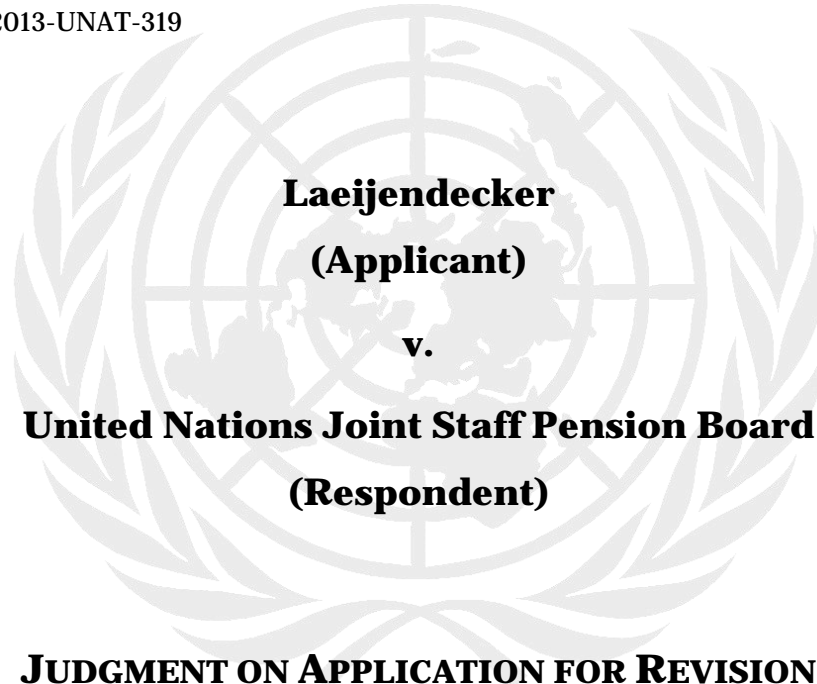




**UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES**

Judgment No. 2013-UNAT-319



Before:	Judge Mary Faherty, Presiding Judge Sophia Adinyira Judge Jean Courtial
Case No.:	2010-168
Date:	28 March 2013
Registrar:	Weicheng Lin

Counsel for Applicant:	Self-represented
Counsel for Respondent:	Bernard Cochemé

1. The United Nations Appeals Tribunal (Appeals Tribunal) has before it an application for revision of Judgment No. 2011-UNAT-158, *Laeijendecker v. United Nations Joint Staff Pension Board*, which was rendered on 8 July 2011. Mr. Harry Laeijendecker filed his application on 28 September 2011, and the United Nations Joint Staff Pension Fund (UNJSPF) filed its comments on 26 October 2011.

Facts and Procedure

2. Mr. Laeijendecker challenged before the Standing Committee of the United Nations Joint Staff Pension Board (UNJSPB) the fact that, whereas he separated from service with the International Court of Justice (ICJ) in 2003, the latter failed to initiate a disability claim on his behalf and that he was not aware of the disability claim procedure until 2006. Mr. Laeijendecker also made allegations of arbitrariness and abuse of power by the United Nations Staff Pension Committee (UNSPC). The Standing Committee of the UNJSPB, on 21 July 2010, upheld the decision of the UNSPC rejecting Mr. Laeijendecker's request for a disability benefit, on the grounds that he had failed to provide any explanation justifying exceptional circumstances that had prevented him from submitting a request to the UNSPC in a timely manner.

3. In Judgment No. 2011-UNAT-158, the Appeals Tribunal affirmed the decision of the Standing Committee. The Appeals Tribunal, in accordance with its jurisprudence, considered that Mr. Laeijendecker, having made the request more than two years after the expiration of the deadline and not having established, by way of evidence, his disability, had not complied with the time limit and had not highlighted circumstances which would have justified departing from the Appeals Tribunal's consistent approach to the issue of time limits.

Submissions

Mr. Laeijendecker

4. Mr. Laeijendecker contests the legality of the Judgment, on the basis that it was not signed by the three Judges involved.

5. He maintains that the Appeals Tribunal erred in its interpretation of the facts. He submits that he had provided medical reports, drawn up notably by the ICJ itself, and authorized the Respondent to contact his doctors directly.

6. Mr. Laeijendecker contends that the presiding Judge should have recused herself from this case, under Article 3(9) of the Statute and Article 22 of the Rules of Procedure of the Appeals Tribunal. He submits that the presiding Judge was aware that he had filed a confidential report with the United Nations Office of Internal Oversight Services (OIOS), requesting an investigation into malpractice allegedly committed by the judges in The Hague, including the presiding Judge.

7. Mr. Laeijendecker submits that the Appeals Tribunal did not answer every argument raised in his pleadings and that the Judgment was not properly reasoned.

8. He requests interpretation of paragraphs 29, 30 and 31 of the impugned Judgment.

UNJSPF

9. The UNJSPF submits that Mr. Laeijendecker does not provide any new decisive fact within the meaning of Article 24 of the Rules of Procedure of the Appeals Tribunal.

10. The UNJSPF submits that, contrary to his wish but in accordance with the jurisprudence, the applicant, whose appeal before this Tribunal was rejected, cannot re-litigate his case.

Considerations

11. Applications for revision of judgments are governed by Article 11(1) of the Statute and Article 24 of the Rules of Procedure of the Appeals Tribunal.

12. Pursuant to Article 11, an applicant must show or clearly identify a decisive fact which was, at the time the Judgment was rendered, unknown to the Appeals Tribunal and to the party applying for revision, and that such ignorance was not due to negligence. The Appeals Tribunal, in *Beaudry*,¹ held that an application seeking revision can, irrespective of the title, only succeed if it fulfils the strict and exceptional criteria set out in Article 11 of the Statute. With regard to the applicant's submissions, there is therein no new fact such as meets the criteria set out in Article 11.

¹ *Beaudry v. Secretary-General of the United Nations*. Judgment No. 2011-UNAT-129.

13. Under the heading “Wrong (Interpretation of the) Facts” in his application for revision, the applicant seeks merely to re-argue issues that were before the Appeals Tribunal at the time of the appeal. Similarly, the arguments made at paragraphs 3(a) (b) and (c) in his application for revision constitute an attempt to reopen matters and repeat submissions that were before the Appeals Tribunal prior to Judgment being rendered in the case.

14. Insofar as the applicant seeks “Interpretation” of Judgment No. 2011-UNAT-158, paragraphs 29, 30 and 31 of that Judgment are clear on their face and must be read in conjunction with the preceding paragraphs 27 and 28 and in conjunction with paragraphs 32 to 35.

15. With regard to the allegation of bias, what the applicant seeks to assert is that by virtue of the presiding Judge’s former positions as a Judge of the International Criminal Tribunal For Rwanda and the International Criminal Tribunal for the former Yugoslavia in The Hague, she was in some regard involved in, or aware of, the alleged malpractices in the ICJ which were the subject of a report filed by the applicant, requesting an OIOS investigation. Mr. Laeijendecker submits that the presiding Judge should have recused herself from hearing his appeal.

16. At their height, Mr. Laeijendecker’s submissions amount to no more than completely unsubstantiated allegations about the presiding Judge and a mischievous attempt to connect her former offices to issues he had with the ICJ.

17. Mr. Laeijendecker has not made out any case for revision and his application is thus denied.

Judgment

18. The application for revision is rejected.

Original and Authoritative Version: English

Dated this 28th day of March 2013 in New York, United States, and Paris, France.

(Signed)

(Signed)

(Signed)

Judge Faherty, Presiding

Judge Adinyira

Judge Courtial

Entered in the Register on this 19th day of April 2013 in New York, United States.

(Signed)

Weicheng Lin, Registrar