

Decision No. 104

Mohammad Azhar,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

1. The World Bank Administrative Tribunal, composed of P. Weil, President, A.K. Abul-Magd and E. Lauterpacht, Vice Presidents, and F.K. Apaloo, R.A. Gorman, E. Jimenez de Arechaga and Tun Suffian, Judges, has been seized of an application, received December 18, 1990 by Mohammad Azhar, against the International Bank for Reconstruction and Development. The Respondent as its answer filed a Request for Summary dismissal of the Applicant's application. The President of the Tribunal decided that the jurisdictional issues should be separated from the merits in this case. The Applicant filed a reply limited to the jurisdictional issues to which the Respondent did not file a rejoinder. The Tribunal rejected the Applicant's request for oral proceedings as unnecessary. The case was listed on September 24, 1991.

The relevant facts:

2. By letter, dated May 28, 1986, from an officer of the Personnel Management Department (PMD), the Applicant received an offer, which he accepted, of a temporary appointment with the World Bank under the Summer Employment Program, effective June 2, 1986 through August 29, 1986.

3. On July 31, 1986 the Applicant left the service of the Bank.

4. By letter, dated November 2, 1987, the Applicant submitted an application for employment with the World Bank. By letter, dated December 11, 1987, an officer from the International Recruitment Unit of the Personnel Department informed the Applicant that his application had been reviewed, that no suitable vacancy for him existed at that time, and that his application was being kept on file for future consideration because his professional background was of general interest.

5. A letter from the Applicant to the Regional Vice President for Latin America seeking employment in his Region was forwarded to the Recruitment Officer for that Region who by letter, dated June 16, 1989, informed the Applicant that knowledge of Spanish or Portuguese was desirable in order to be considered for a position in that Region. The Recruitment Officer added that he had forwarded the application to the Central Recruitment Unit of the Personnel Department for assessment of the Applicant's qualifications against the Bank's current and projected staffing needs.

6. Meanwhile, on June 5, 1989, the Applicant had sent his application to the Vice President, Personnel, with a request for an appointment. By letter, dated June 21, 1989, an officer from the International Recruitment Unit of the PD informed the Applicant again that no suitable position had been identified and that his application would be kept on file for another year.

7. By letter, dated September 13, 1989, the Applicant sought entry to the Young Professionals Program (YPP). However, by letter, dated September 21, 1989, the Administrator of YPP informed him that he was too old for further consideration of his candidacy and that he had forwarded his application to the staff in charge of direct recruitment for the Bank. Later, by letter, dated March 1, 1990, an officer from the Personnel Department (PD) informed the Applicant that there was no suitable position for him and that his application would be kept active for another year.

8. In response to a letter, dated August 12, 1990, from the Applicant to the President of the Bank which was forwarded to the Recruitment Division of PD and by letter, dated August 28, 1990, an officer from that division requested the Applicant to send in a comprehensive curriculum vitae in English to enable them to evaluate his professional background against the Bank's staffing requirements.

9. By letter, dated October 28, 1990, the Applicant responded with his application. He also, in letters of the same date to the Vice President, Personnel and Administration, the Chief, Recruitment Division and an officer in the same Division stated that President Conable had voted for him to work for the World Bank because of his positive contribution to the institution and requested any entry level position.

10. To a letter, dated October 9, 1990, to the President of the Bank, the Applicant attached his Statement of Appeal to the Appeals Committee and by the same letter informed the President that he had already spoken with the secretaries to the Appeals Committee. By letter, dated November 8, 1991, an officer of the Recruitment Division of PD informed the Applicant that his appeal, which had been passed on by the President's office had been forwarded to the Appeals Committee.

11. In a letter dated November 17, 1990, the Chairman of the Appeals Committee notified the Applicant that the Committee was not competent to hear appeals concerning recruitment decisions made by the World Bank and, therefore, was returning to him his Statement of Appeal.

The Respondent's main contentions on the jurisdictional issues:

12. The Tribunal should summarily dismiss the application as clearly irreceivable and devoid of all merit, because

(i) the Applicant is contesting the Respondent's decision not to hire him for the positions for which he applied during the period 1987 through 1990 and such a recruitment decision is not subject to the Tribunal's jurisdiction;

(ii) the Applicant does not allege that there was a contract of employment whose terms had not been observed or in regard to which some illegality had been committed; and

(iii) if the Applicant were alleging a non-observance of his contract of employment in 1986 while he was a staff member, his action would not be timely.

The Applicant's main contentions on the jurisdictional issues:

13. Since the President of the Respondent voted for the Applicant to work for the World Bank, it was difficult for him to understand the jurisdictional issue.

14. In 1986 when the Applicant was employed in the Summer Employment Program, his contract of employment was violated because he was told to leave prematurely although he was not at fault.

Considerations:

15. Article II, paragraph 1, of the Statute of the Tribunal provides:

The Tribunal shall hear and pass judgment upon any application by which a member of the staff of the Bank Group alleges non-observance of the contract of employment or terms of appointment of such staff member. The words "contract of employment" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance including the provisions of the Staff Retirement Plan.

The Applicant was not a staff member at the time the decision complained of was adopted, nor is he alleging that there was a contract of employment whose terms had not been observed or in regard to which some

illegality had been committed.

Decision:

For the above reasons, the Tribunal unanimously decides that the application is inadmissible.

Prosper Weil

President

C. F. Amerasinghe

Executive Secretary

At Washington, D.C., December 6, 1991