

Decision No. 162

Nagwa Aziz,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

1. The World Bank Administrative Tribunal, composed of E. Lauterpacht, President, R.A. Gorman and F. Orrego Vicuña, Vice Presidents, and P. Weil, A.K. Abul-Magd, Thio Su Mien and Bola A. Ajibola, Judges, has been seized of an application, received on February 27, 1996, by Nagwa Aziz against the International Bank for Reconstruction and Development. The usual exchange of pleadings took place. The case was listed on May 16, 1997.

2. The Applicant claims that her position was improperly declared redundant in 1994--a claim which requires a close scrutiny of the work performed by the Applicant in her original position and the work allocated to the positions which she claims eventually replaced it.

THE RELEVANT FACTS

3. The Applicant was hired by the World Bank as a Bank Temporary in October 1989. In March 1990, the Applicant was appointed to a permanent position in the Cofinancing and Financial Advisory Services Department (CFS), Private Sector Development and Privatizing Division (CFSPS). The Applicant continued to work in CFSPS until her position was declared redundant effective September 1, 1994. Her title and level at the time of the redundancy was Staff Assistant, level 14.

4. The Applicant's performance appraisals show that her work was highly regarded by her supervisors. It was noted that, aside from her normal secretarial duties, the Applicant was a back-up for Management Information Systems (MIS) time recording work and other MIS functions, arranged mission travel, prepared statements of expenses, edited and proofread documents, handled consultant administration and, among other things, used PageMaker software to produce seminar materials on transparencies and Canvas to produce presentations and charts.

5. By memorandum from the Manager, CFSPS, dated July 26, 1994, all CFSPS regular and long-term staff and consultants were provided with a report on the reorganization of support services entitled "Realigning the Provisions of Support Services" (hereinafter "the Report").

6. In the Report, it was indicated that support services was an area that required urgent examination for improvement in terms of efficiency and effectiveness. A "Work Review" had been undertaken over a period of sixteen weeks, which included a qualitative questionnaire to all staff, Groupware sessions for all staff, informal discussion with most high level and some support level and research assistant staff, a review of support service reorganizations in the Bank and a review of "best practices" in the consulting industry.

7. The Report noted that support level staff were "generalists" in the way they delivered services, as they were expected to undertake mainly secretarial, administrative and clerical tasks. This posed several problems, including: (1) excessive turnaround time for simple and urgent tasks; (2) significant reduction in the

accuracy level in output; (3) significant reduction in the effective capacity of the support level staff; (4) infrequent tasks taking an unacceptably long time; and (5) clerical tasks being given low priority. The Report further indicated that the current system of having "generalists" was antiquated and that there needed to be a better allocation of support staff as well as improved accountability.

8. In the light of the Report's findings, it was recommended that support services adopt a "tiered" specialist approach, whereby one group of specialists served the entire group and the other served subgroups of high level staff. The group-wide specialists would be used for all administrative tasks, document production and desk-top publishing, telephone answering, and office management. The second tier of specialists would undertake clerical tasks and coordinate support tasks for subgroups of high level staff.

9. The Report provided a description of the new positions. In pertinent part, the Staff Assistant Responsible for Administrative Support Functions (level 14/15) was to be responsible for: travel support for all divisional staff and short-term consultants; the time recording system for all divisional staff; consultant administration for short-term consultants; the updating and maintaining of the consultant referral service database; and reconciling monthly telephone bills. The Staff Assistant Responsible for Document Processing/Typing (level 13/14) was to be responsible for: document enhancement; desk top publishing, final editing, proof reading, and formatting; the production of tables, graphs, and pictures from handwritten originals; the preparation of transparencies; liaising with the Bank's art department, print shop, and publications department as appropriate; the initial trouble shooting for "DTP" and other software used in the division, including WORD, PageMaker, Canvas, and Excel; ad hoc tasks as assigned by the Administrative Secretary; and assisting Associates with task-related documents. In addition to the two Staff Assistant positions, four clerical positions were created which were to be filled by temporary staff.

10. In a memorandum to the Director, Personnel Management Department (PMD), of July 26, 1994, the Acting Vice President, CFS, addressed the staffing implications of the recommended reorganization of support services. He noted, among other things, that the proposal would result in six regular/fixed-term Staff Assistant positions being abolished and that two new Staff Assistant positions would be created -- Staff Assistant-Administrative (level 14/15) and Staff Assistant-Document Processor (level 13/14). He indicated that the staff currently occupying the six positions, including the Applicant, would be eligible to apply for the two newly created Staff Assistant positions if their current levels were the same or higher than the levels of the new positions. Pursuant to Staff Rule 7.01, paragraph 8.03, he requested the Director's agreement that the employment of the six staff members occupying the Staff Assistant positions be declared redundant.

11. The Applicant did not apply for either of the two post-reorganization Staff Assistant positions. On August 18, 1994 the Chief Personnel Officer formally advised the Applicant that her employment had become redundant in accordance with Staff Rule 7.01, paragraph 8.03, effective September 1, 1994. The memorandum also indicated that the World Bank Job Search Center (JSC) would assist the Applicant in finding a new position and that, should her search prove unsuccessful, she would receive further sixty-day notice that her employment was subject to termination under Staff Rule 7.01. The Applicant unsuccessfully applied for a number of other vacant positions within the Bank.

12. On November 18, 1994 the Applicant made a formal request for administrative review of the decision making her position and the positions of all other support staff in CFSPS redundant. On December 6, 1994 the Vice President, CFS, indicated that he concurred with the redundancy determination.

13. On February 22, 1995 the Chief, PMD, outlined to the Applicant the terms and conditions to the August 18, 1994 notice of redundancy. By memorandum dated February 24, 1995 the Director, PMD, informed the Applicant that, pursuant to Staff Rule 7.01, paragraph 8.07(a), she had sixty days' notice of termination from the Bank Group.

14. On February 8, 1995 the Applicant filed a Statement of Appeal to the Appeals Committee. On November 22, 1995 the Appeals Committee recommended that the Applicant's requests for relief be denied. By letter dated November 28, 1995 the Senior Vice President, Management and Personnel Services, informed the

Applicant that he accepted the Committee's recommendation.

THE APPLICANT'S MAIN CONTENTIONS

15. The Applicant's position was not redundant under Staff Rule 7.01, paragraph 8.02. The requirements of the Applicant's pre-reorganization Staff Assistant position and the requirements of the post-reorganization Staff Assistant for Document Processing, level 13/14, position were essentially the same, and the Applicant had the skills and training necessary to fulfill the new position requirements.

16. Assuming that the Applicant's position was declared redundant under Staff Rule 7.01, paragraph 8.02(d), the Respondent violated paragraph 8.03 by failing to take into consideration its listed factors.

17. The decision to declare the Applicant's position redundant was not taken in the interests of efficiency, but was motivated by a desire to terminate her employment and was an abuse of authority.

18. The Respondent abused its discretion in abolishing the Applicant's position without first reassigning the Applicant to one of the newly created post-reorganization positions, namely, the position of Staff Assistant for Document Processing, level 13/14. Administrative guidelines do not require, as a condition of reassignment, that the displaced staff member apply for a position.

19. The Respondent did not encourage the Applicant to apply for either of the two post-reorganization Staff Assistant positions. Failure to present neutrally to the Applicant the option of applying for either of the two Staff Assistant positions for which she was qualified was a breach of the Respondent's duty to act in good faith.

20. The Applicant's pleas are as follows:

- (i) reinstatement in a regular position equal in grade and salary to her original position, plus payment of compensation; or