



World Bank Administrative Tribunal

2010

No. 446

**BL,
Applicant**

v.

**International Bank for Reconstruction
and Development,
Respondent**

**World Bank Administrative Tribunal
Office of the Executive Secretary**

**BL,
Applicant**

v.

**International Bank for Reconstruction
and Development,
Respondent**

1. This judgment is rendered by a Panel of the Tribunal, established in accordance with Article V(2) of the Tribunal's Statute, composed of Stephen M. Schwebel, President, and Judges Francis M. Ssekandi and Mónica Pinto.

2. The Application was received on 28 April 2010. The Applicant was not represented by counsel. The Bank was represented by David R. Rivero, Chief Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 9 July 2010.

3. This case deals with the Applicant's claim that the Bank breached his contract of employment and terms of appointment when the Mobility Premium paid to him by the Bank was reduced after his wife began working for the International Monetary Fund ("IMF" or "Fund") and became eligible for IMF benefits.

FACTUAL BACKGROUND

4. Until July 1999, the Bank provided expatriate benefits to all its expatriate staff members in the form of "home country travel" (or "home leave") and "education" benefits. The relevant Staff Rules state that the home country travel benefit was "designed to help expatriate staff members maintain their cultural, professional, and personal links with their home countries," and that the education benefits are provided by the Bank Group "to extend reasonable assistance to expatriate staff members for the education of their

dependent children.” The IMF provides similar expatriate benefits to its expatriate staff. The Bank and the IMF have had a long-standing agreement to coordinate benefits for Bank/IMF couples to avoid duplicating payment of benefits to such couples.

5. Following the implementation of a number of Human Resources reforms in April 1998, and in order to improve administrative efficiency and to reduce costs, the Bank replaced “home country travel” and “education” benefits with a “Mobility Premium” benefit. According to Staff Rule 6.21 (Mobility Premium), paragraph 1.01, the Mobility Premium is intended to provide “expatriate staff members reasonable assistance to help them maintain their cultural, professional and personal links with their home countries.” The new policy was applicable to Bank staff members appointed as of 1 July 1999. The expatriate benefits for IMF staff members remained unchanged. Initially, the Bank and the IMF required Bank/IMF couples to elect the Organization from which the couple wished to receive benefits. Effective 1 April 2003, the Bank and the IMF revised their policies so that neither Organization provided spousal benefits for members of Bank/IMF couples. Instead, each staff member received benefits from his or her respective Organization, and the couple’s children were covered under the IMF’s dependency, home country and education benefits. This policy as revised is reflected in Staff Rule 6.21, paragraph 3.05, which reads:

If a Bank Group staff member eligible for a mobility premium becomes a Bank/IMF couple with an IMF staff member eligible for home country travel and education benefits on or after April 1, 2003, the Bank Group staff member’s mobility premium will be determined under paragraph 3.02 above, excluding the IMF staff member and any child(ren) for whom dependency allowance is paid by the IMF. The IMF staff member and the claimed dependent child(ren) will receive home country travel and education benefits from the IMF in accordance with its applicable policies.

6. Staff Rule 6.21, paragraph 3.02 (Bank/Bank couples), provides, in part, that for a Bank staff member who is part of a Bank/Bank or Bank/IMF couple and is receiving a Mobility Premium from the Bank, the Bank “will pay the premium to the staff member who is eligible for that benefit, with the payments based on that staff member’s zone and eligibility period.” The IMF has similar rules also designed to avoid overlapping Bank-IMF benefits.

7. On 5 December 2005 the Applicant joined the Bank as an Open-Ended staff member. As an expatriate staff member who was recruited to a position subject to international recruitment and assigned to Headquarters, the Applicant received a Mobility Premium since that date pursuant to Staff Rule 6.21. The Applicant also received Mobility Premium payments for his wife (beginning on 5 December 2005) and his daughter following her birth. According to Staff Rule 6.21, the Applicant is eligible for a Mobility Premium for a period of 10 years, if he continues to meet the eligibility criteria as specified in the Staff Rule.

8. On 1 June 2009 the Applicant’s wife joined the IMF as a new staff member on a three-year fixed-term appointment. As of that date, and according to IMF policies, she became eligible for IMF benefits and compensation. On 1 July 2009, following instructions by the Bank’s Human Resources Service Center (“HRSCC”), the Applicant sent an e-mail message disclosing that his wife started her employment with the IMF on 1 June 2009. Once HRSCC was so informed, it terminated the Mobility Premium paid to the Applicant in respect of his wife and their daughter effective the first day of the following quarter (1 July 2009) per Staff Rule 6.21, paragraph 3.05.

9. In an exchange of e-mail messages between the Applicant and the Project Manager, HRSCC, dated 2 July 2009, the Applicant asked whether he could keep his existing arrangement (mobility premium and dependency allowance) unchanged until his wife actually received expatriate benefits from the IMF, two years from the beginning of her employment with the IMF.

10. The Project Manager responded stating that he could not accommodate the Applicant's request. He stated:

The rules are clear that your wife is ineligible to get a spouse benefit for home leave from the Fund for you, and that you are ineligible to get a spouse payment for mobility premium from us for your wife. Regarding dependency, the problem is that we cannot prevent the mobility payment for your spouse if the Bank pays dependency, whereas the Fund can authorize home leave to your spouse but not for you if the Fund pays dependency. Thus, child benefits must accrue from the Fund and dependency must be paid by the Fund and we cannot accommodate paying you for mobility until your child is eligible for expatriate benefits from the Fund ...

11. In another e-mail message, the Project Manager clarified the difference between eligibility for receipt of benefits and actual receipt of benefits:

If [your wife] is eligible for home leave, she is eligible for home leave even if it takes 2 years to accrue enough service to take home leave. If she is eligible for education benefits, she is eligible for education benefits, even if you don't have kids, or have kids too young to use the benefit, or send your kids to public school. She is still eligible if she uses the benefit or not.

12. The Applicant questioned the Bank's policy of basing of benefits on eligibility rather than actual receipt stating that:

[My wife] is on a temporary basis, and might not get extended at the end of term or she might choose to leave IMF at some point down the road. If she is no longer with IMF say in two years, she will not enjoy any such benefits on IMF side during the coming two years, while we cannot receive any mobility allowance associated with her on the Bank side during this time as well. Then just because the Bank draws the line based on "eligibility" we are penalized for no good reason. Then I wonder what is the rationale for the Bank to set up the Mobility Premium, and why the treatment differs when the spouse works for the IMF vs. any other firm or organization. If

the Bank sticks to eligibility instead of receipt, then how can Bank/IMF couples keep the Bank benefits unchanged? Is that the only option that IMF spouse drops IMF benefits?

13. The Applicant and the Project Manager continued an exchange of messages in July 2009 in which the Applicant asked for clarification of the Bank's and IMF's policies and of his wife's eligibility for benefits and the Project Manager provided interpretation of the Staff Rule. Pursuant to the Applicant's request, the Project Manager confirmed with IMF HR that the Applicant's spouse was eligible for IMF expatriate benefits.

14. After further exchanges and at the request of the Applicant, the Project Manager met the Applicant at his office to reconfirm his position that the HR decision would not change. Thereafter and following the Project Manager's advice, the Applicant contacted the Staff Association, Ombuds Services and Mediation Services and submitted a Request for Review with the Peer Review Services ("PRS") Secretariat. The Applicant claimed, among other things, that (i) because his wife would not actually be able to collect benefits from the IMF until 18 months after her IMF appointment, at the earliest, the Bank should not reduce the Mobility Premium payments to the Applicant that are ascribed to his wife before those 18 months have elapsed; and (ii) because under the IMF's policies, his daughter is not entitled to an education allowance until she is at least 4 years old, the Bank should likewise continue paying the Mobility Premium component for his daughter until his wife could actually collect education benefits for her from the IMF.

15. After receiving witness testimony and written submissions, the PRS Panel arrived, *inter alia*, at the following conclusions: (i) the Bank applied Staff Rule 6.21, paragraph 3.05, in a consistent manner by excluding a Mobility Premium for the Applicant's wife and child from the beginning of his wife's employment with the IMF, rather than the date she will be entitled to enjoy home country travel; (ii) the Bank's interpretation of the word

“eligible” in Staff Rule 6.21, paragraph 3.05, is reasonable and not arbitrary; and (iii) the Bank did not discriminate against the Applicant nor treat him unfairly.

16. The Panel found that HRSCC’s decision was consistent with the Applicant’s contract of employment and terms of appointment, including Staff Rule 6.21, paragraph 3.05. The Panel unanimously recommended that the decision-maker, the Vice President of Human Resources (“HRSVP”), deny the relief requested by the Applicant in his Request for Review. By letter dated 4 December 2009, HRSVP informed the Applicant that he had accepted the Panel’s recommendations. The Applicant filed his Application with the Tribunal on 28 April 2010.

17. The Applicant is contesting the following decisions: (i) the decision of HRSCC to terminate on 1 July 2009 the Mobility Premium component in respect of his wife and daughter citing Staff Rule 6.21, paragraph 3.05; (ii) the PRS Panel decision dated 4 November 2009 recommending that his request for relief be denied; and (iii) HRSVP’s decision dated 4 December 2009 denying his request for relief.

18. The Applicant requests the Tribunal to: (i) order HR to reinstate the Mobility Premium component in respect of his wife and his daughter and compensate him for denial of this benefit from 1 July 2009 until the date of such reinstatement and until they can actually receive IMF expatriate benefits; (ii) order HR to revise Staff Rule 6.21, paragraphs 3.05 and 3.06, and make official and public the correct policy and/or its interpretation; (iii) order HR, to revise its existing practice with regard to the application of Staff Rule 6.21, paragraph 3.05; (iv) award \$1 or any other amount deemed appropriate by the Tribunal to compensate his family for the great amount of time they had spent pursuing the case, and for the frustration and serious disruptions to their lives caused by this case; (v) order HR to

compensate the other 20 or so Bank/IMF couples who, like him and his wife, have suffered financial losses due to HR's incorrect application of Staff Rule 6.21, paragraph 3.05; (vi) order HR to revisit the home leave and other benefit plans designed for extended field assignment staff members, so that these be in line with the correct interpretation and application of Staff Rule 6.21, paragraph 3.05; and (vii) pay \$1 or any other amount deemed appropriate by the Tribunal to compensate the Project Manager, HRSCC, for his diligence in exploring this case.

THE CONTENTIONS OF THE PARTIES

The Applicant's contentions

19. The Applicant claims that the Bank violated a contractual obligation owed to him by applying Staff Rule 6.21, paragraphs 3.05 and 3.06, to his circumstances. The Applicant points out that the Mobility Premium given by the Bank is not identical or nearly identical to the Bank's former provision for expatriate benefits or to the home leave and education benefits given by the IMF. He states that he is puzzled by HR's denial of his legitimate personal benefits by comparing the Mobility Premium to home leave and education benefits as if they were the same.

20. The Applicant alleges that even though a reduced amount of benefits does not necessarily mean that the general policy is unfair or arbitrary, the Bank's interpretation of paragraph 3.05 of Staff Rule 6.21 is not fair and equitable because it goes against the true spirit behind setting up a Mobility Premium benefit and also because there is a clearly more equitable way to interpret that general policy.

21. The Applicant furthermore maintains that his interpretation of the Staff Rule is sounder than the Bank's. Under the Bank's interpretation, he contends, the purpose of

setting up a Mobility Premium and the spirit behind the Bank's and IMF's joint efforts in harmonizing such benefits and avoiding "double dipping" is defeated or compromised simply because the Applicant's family, as well as other "similarly situated" Bank/IMF couples, end up being deprived of actual legitimate benefits with no compensation during the "gap period," i.e. the period of time between the date of employment of the IMF spouse and the date those benefits are actually paid to the IMF spouse. He claims that, in his case, this gap period would amount to 18 or 24 months for his wife and their daughter in respect of home leave benefits, and to about 38 months for their daughter in respect of education benefits.

22. The Applicant maintains that any duplication of benefits would take place not on the date of employment of the IMF spouse, as the Bank contends, but when the IMF actually pays the benefits to the IMF spouse. Until that time, he proposes that the Bank/IMF couple receive expatriate benefits from the Bank in order to remain "whole" relative to the actual amounts that couple used to receive as benefits at the point when the Bank applies Staff Rule 6.21, paragraphs 3.05 and 3.06. He contends that a similarly calculated approach should be applied to each of the other 20 Bank/IMF couples in order to make them "whole."

23. Finally, the Applicant believes that the Bank's application of Staff Rule 6.21, paragraphs 3.05 and 3.06, is not only arbitrary but also discriminatory at least to the Applicant and the "similarly situated" Bank/IMF couples in that the Bank made a subjective decision preferring institutional collective good over a fair treatment of all the staff members governed by that policy.

The Bank's contentions

24. The Bank first claims that the Applicant seeks to change the Bank's policies in a manner favorable to himself or to have himself exempted from the application of the Staff Rule. The Bank argues that it is not the Tribunal's role to order the Bank to re-write the governing Staff Rule in accordance with the Applicant's wishes.

25. Staff Rule 6.21, the Bank states, is a general rule that has a reasonable basis and serves a valid institutional purpose. The IMF and the Bank, after consultation, decided to adopt parallel policies that prevented Bank/IMF couples from "double dipping." The mere fact that the benefits scheme adopted by the Bank in consultation with the IMF may reduce the total amount of benefits paid out to individual staff members, for a certain period of time, which the Applicant calls the "gap period," does not mean that the policy is unfair or arbitrary.

26. Secondly, the Bank maintains that its definition of "eligible" is correct and in accord with common usage, and that HR applies "eligible" in its ordinary meaning. The word is used to mean "the capacity to access the benefit when the terms and conditions of accessing the benefit are met." The Bank further states that in addition to the linguistic reasons for not re-defining "eligibility" to mean something that it does not, there are also practical reasons against accepting the Applicant's argument; his proposed scheme would be unworkable.

27. Thirdly, the Bank states that it does not discriminate between staff in the application of the Staff Rules. There is no requirement that the Bank's generally applicable Staff Rules have exactly the same impact on each and every staff member. For

example, staff members are not entitled to collect the same salary, or to have in their leave accounts the same amount of leave, as all other staff.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

28. In the present case, the Applicant is essentially contesting the interpretation of Staff Rule 6.21, paragraph 3.05, and the manner in which the Bank has applied it in his case. In addition, he is taking issue with the fact that the Bank's interpretation and application of this Staff Rule may be affecting other similarly situated staff members in an adverse manner. Moreover, the Applicant is questioning the rationale behind the adoption of Staff Rule 6.21, paragraph 3.05, and the coordination of expatriate benefits policies between the IMF and the Bank.

29. According to its well-established jurisprudence, the determination of the Bank's policy falls within the discretionary ambit of the powers of the Bank and its governing institutions. It does not fall within the judicial reach of the Tribunal. The Tribunal does not have the authority to make or review policy established by the Bank or to "override the Bank's considered judgment and to replace it with its own." (*See Oinas*, Decision No. 391 [2009], para. 27; *Eindhoven*, Decision No. 23 [1985], para. 43; *von Stauffenberg*, Decision No. 38 [1987], para. 123). What the Tribunal has the power to do is review whether there has been non-observance of the contract of employment or terms of appointment of an applicant. In this respect, "[s]o long as the Bank's resolution and policy formulation is not arbitrary, discriminatory, improperly motivated or reached without fair procedure, there is no violation of the contract of employment or of the terms of appointment of the staff member." (*See Eindhoven*, Decision No. 23 [1985], paras. 40 and 43.)

30. Furthermore, along with other international administrative tribunals, the Tribunal has consistently held that a claim of non-observance of a staff member's contract of employment or terms of appointment must be directed not against the Organization's promulgation of some general rule or policy but rather against an application of that rule or policy – be it reflected in an action or an omission – that directly affects the employment rights of a staff member in an adverse manner. (*Briscoe*, Decision No. 118 [1992], para. 30). The Tribunal will review the instant Application in the light of these standards and precedents.

31. The Bank has explained the justification for Staff Rule 6.21, paragraph 3.05, as follows. In the administrative history of both Organizations there has been a policy of coordination for Bank/IMF couples on expatriate benefits including home leave, education, dependency allowance, resettlement and financial assistance. The aim was to make efficient use of the two Organizations' assets because they have essentially the same shareholders, and to avoid "double dipping" or duplication of benefits by staff members. Accordingly, each Bank/IMF couple is limited to a single set of benefits. Staff Rule 6.21, is consistent with that policy.

32. It has also been explained that, before the advent of the Mobility Premium, Bank and IMF rules had required coordination of home leave and education benefits for Bank/IMF couples.

33. From the inception of Staff Rule 6.21 in July 1999 and in order to avoid the duplication of benefits, Bank/IMF couples were required to make an irrevocable decision to elect either home leave and education benefits from the IMF or the Mobility Premium from the Bank for the entire family. The Bank and the IMF enforced that rule for about

four years and there are still some staff members that fall under this regime, which is governed by Staff Rule 6.21, paragraph 3.04. Following an internal complaint by a staff member, the IMF reviewed the rule and concluded that a preferable framework would be one in which the employees of either Organization would not cede their rights to these benefits from their respective Organization. The current framework was proposed to the Bank by the IMF, and the two Organizations agreed (i) to revise the Staff rules to allow each Organization to give expatriate benefits to its respective employees with no spousal component and (ii) to apply the change prospectively. The revision was drafted, put through the standard reviews and consultations with the Staff Association and implemented with effect from 1 April 2003.

34. The Tribunal finds that the Bank has produced a sufficient explanation of the legitimate justification for the coordination of the treatment of expatriate benefits by the two Organizations. Moreover, as the Tribunal has stated repeatedly in its jurisprudence, and more recently in *Fischel*, Decision No. 400 [2009], para. 46, it is not within its competence to reconsider such a policy,

to consider which alternative would have been best or more effective to attain the desired objectives of the reform”; it can only decide whether the solution adopted “can be applied lawfully to the Applicant in the light of his rights as a staff member.” (*Crevier*, Decision No. 205 [1999], para. 17.)

35. Turning now to the Applicant’s argument regarding the interpretation of paragraph 3.05 of Staff Rule 6.21 and of the term “eligibility,” and its application to him by the Bank, the Tribunal finds that this Staff Rule does apply to his circumstances and that the Bank properly interpreted and applied the Staff Rule to him.

36. As the facts of the case show, the Applicant joined the Bank as an Open-Ended staff member in December 2005 and started receiving a Mobility Premium for himself and

his wife since that time. He also received a Mobility Premium for his daughter soon thereafter, following her birth. When his wife joined the IMF on a three-year appointment on 1 June 2009 she became eligible to receive expatriate benefits from the IMF. Since that date the Applicant and his spouse became a Bank/IMF couple to whom Staff Rule 6.21, paragraph 3.05, applied. Accordingly, since July 2009, the Applicant received a Mobility Premium only for himself according to paragraph 3.02 of that Staff Rule.

37. With regard to the meaning of the word “eligible” and the administration of expatriate benefits by the two Organizations, it has been explained by the Bank’s HR representatives in the proceedings before PRS that the Applicant’s spouse is actually eligible for expatriate benefits from the IMF, and not merely “theoretically eligible.” The Mobility Premium is a prospective benefit to which the staff members are entitled when they begin working, and it is paid to eligible staff “quarterly in arrears on the last day of March, June, September and December.” In contrast, home leave is an “accrued” benefit that a staff member begins accruing from the beginning of the qualifying employment and that becomes payable only after serving for a stated period of time. Until that service is performed, however, the benefit is not available to a staff member. Therefore, as stated by HR representatives, home leave is a benefit that is operative in the future; it takes time to accrue. Regarding the receipt of the education benefit from the IMF, under its current policy, the Applicant’s daughter could become eligible at age 4. Therefore, even though staff members may have never exercised expatriate benefits (for example, if they leave these Organizations before the benefits sufficiently accrue) this does not detract from the fact that they are eligible for benefits during the period of their official employment.

38. Regarding the administration of benefits, the Tribunal found in *Elder*, Decision No. 306 [2003], para. 12, that:

The Tribunal does not believe that it is arbitrary for the Bank to establish reasonable limits and conditions on the benefits allowed under the rules which it enacts from time to time.

39. Furthermore, in *Lavelle*, Decision No. 301 [2003], para. 16, the Tribunal stated:

The Tribunal does not see anything wrong with a decision that grants benefits to the staff pursuant to certain criteria, including those related to the number of years served. In fact, this is what is normally done in any pension system or for other employment benefits. ... [This decision] was not arbitrary or capricious [but] ... reasonably related to the nature of the duties, and to the expected duration of service.

40. In the current case, the Tribunal finds that the criteria that the Bank established in coordination with the IMF in order to award expatriate benefits to Bank/IMF couples in a certain manner were reasonable and justified by the legitimate objectives of the policies of the two Organizations. The Tribunal finds as well that the Applicant's proposed criteria for the award of such benefits and his interpretation of the term "eligibility" would result in the outcome that the policy rationale behind Staff Rule 6.21, paragraph 3.05, intended to avoid, namely the duplication of benefits to Bank/IMF couples, for the following reasons.

41. The Tribunal notes that, even though the Applicant maintains that his wife, who joined the IMF in 2009, may not ever receive her home leave benefit from the IMF because her employment may be terminated before the benefit accrues, the fact remains that the Applicant's wife, who has a three-year appointment with the IMF, is indeed expected to remain employed until 2012 and can receive the benefit in December 2010 or June 2011. If the Applicant were to get the Mobility Premium for his wife until the day that she receives the benefit from the IMF, so that they in effect remain "whole," as he proposes, he would receive expatriate benefits in the form of the Bank's Mobility Premium

for her and their child in respect to her first 18 to 24 months of her IMF service. For this same period of time, however, the Applicant's wife would also receive from the IMF an expatriate benefit by reason of the accrual of home leave for her and their daughter. Both benefits would derive from the same period of service.

42. Furthermore, as the Bank has also correctly pointed out, once the Applicant's spouse returned from her home leave trip she would not be able to receive her next home leave benefit until 18 to 24 months later. Under the Applicant's interpretation of "eligibility," the Bank presumably should once again pay Mobility Premium to him for his wife and their child until she actually received expatriate benefits from the IMF in order to have the couple "whole" and to guarantee such benefits in case her employment ended before the receipt of such benefits from the IMF. Administering the benefit in the manner the Applicant proposes would clearly result in duplication of expatriate benefits for him and his spouse, as it would for any other Bank/IMF couples that are in the same situation.

43. The Tribunal therefore finds that eligibility for an expatriate benefit in this context means, as the Bank maintains, "the capacity to access the benefit when the terms and conditions of accessing the benefit are met." The Tribunal also notes that the Bank's interpretation of "eligible" for the IMF's home leave benefit is supported by the IMF's rule governing home leave benefits (General Administrative Order No. 17, Rev. 9, Section 3.01) which provides that "[s]taff members holding either regular appointments or fixed-term appointments of at least two years ... shall be eligible for home leave." Section 3.04 of that rule on "Accrual of Home Leave Benefits" states that "[a]n eligible staff member shall accrue and be entitled to receive the home leave benefits ... upon completion of an entitlement period of Fund service."

44. The Applicant also contends that the Bank discriminated against him and others similarly situated in its application of Staff Rule 6.21. In *Crevier*, Decision No. 205 [1999], para. 25, the Tribunal found that

... staff members in different situations will normally be governed by different rules or provisions; the SRP and the Staff Rules are full of such examples. Rather, discrimination takes place where staff who are in basically similar situations are treated differently. As an example, discrimination would occur if only some, but not all, members of a group of eligible redundant staff members were allowed to opt for an unreduced pension under the Rule of 50.

45. According to this definition of discrimination, the Applicant is not the object of discrimination simply because he is in a different situation from other staff of the Bank who are governed by other Staff Rules.

46. The Applicant's claim of discrimination might have been well-founded if he could have shown that the other 20 couples that became Bank/IMF couples after 1 April 2003, as did he and his wife, were treated differently from him and his wife, or that these other couples were indeed afforded duplicate benefits, or that, being in the same factual situation, were afforded preferential treatment. The Applicant makes no such claim. On the contrary, the Applicant acknowledges that not all of the 20 "similarly situated" couples may be in the same factual situation as he and his wife and requests further information about them, stating that by providing him with relevant data, the Bank could help him make a convincing case that they are indeed "similarly situated" to him and "subject to the same wrong."

47. The Tribunal finds that the Bank has provided sufficient explanation of its changes in policy regarding the expatriate benefits among Bank/IMF couples and the application of the relevant Staff Rules to them at different times.

48. Finally, the Applicant requests that his case be treated as a representative case under Rule 26 of the Tribunal's Rules. Rule 26(2) provides that such requests may be granted

where it is shown that there exists an identifiable group of similarly situated staff who share a common legal or factual position and where such a ruling would best serve judicial efficiency in clarifying the rights or obligations of the specified group.

49. The Tribunal finds that the conditions set out in Rule 26(2) have not been satisfied in this case. In any event, as the Applicant's main claim has not been substantiated, his claim for the treatment of his case as representative is untenable.

50. The Tribunal finds that Staff Rule 6.21, paragraph 3.05, was reasonably interpreted and that therefore there was no violation of his contract of employment or terms of appointment.

DECISION

For the reasons given above, the Tribunal dismisses the Application.

/S/ Stephen M. Schwebel
Stephen M. Schwebel
President

/S/ Olufemi Elias
Olufemi Elias
Executive Secretary

At Paris, France, 29 October 2010