

Decision No. 291

Sunil K. Bhattacharya,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

1. The World Bank Administrative Tribunal has been seized of an application, received on October 1, 2002, by Sunil K. Bhattacharya against the International Bank for Reconstruction and Development. The Bank has raised a jurisdictional objection to be decided by a Panel of the Tribunal, established in accordance with Article V(2) of its Statute, and composed of Francisco Orrego Vicuña (President of the Tribunal) as President, Bola A. Ajibola (a Vice President of the Tribunal) and Robert A. Gorman, Judges. The usual exchange of pleadings with respect to jurisdiction took place. The case was listed on November 5, 2002, to decide the issue of jurisdiction only.

2. The Applicant was given a Fixed-Term (later Regularized) appointment in the Bank's Country Office in New Delhi, India on July 1, 1981. He was told that he was eligible upon leaving the service of the Bank only for a Termination Grant, as provided in his letter of appointment. In 1990, the Applicant was offered and accepted a Fixed-Term (later Regularized) appointment at Headquarters in Washington, D.C., where he commenced work on April 30, 1990. He was requested to submit a letter of resignation to effect the transfer. Although he protested this condition, and the non-transfer of his termination benefits to the SRP, he eventually complied. The Applicant was paid and accepted a Termination Grant and, upon his relocation to Headquarters, he commenced service with rights in the Gross Plan of the Staff Retirement Plan (SRP). The Applicant asserts that the Bank has nevertheless regarded his service as having been continuous. The Applicant appealed to the Pension Benefits Administration Committee (PBAC) on April 16, 2002 seeking recalculation of his Termination Grant and the option to repay his Termination Grant and to receive SRP credit for his Country Office service. The PBAC rejected his claim on jurisdictional grounds by letter dated June 3, 2002.

3. The issues presented in the instant case are precisely those that have been addressed by the Tribunal in *Biswas*, Decision No. 262 [2002], as well as this day in *Blair*, Decision No. 281 [2002]. The reasoning in those two judgments applies here as well, both with respect to the allegedly premature and improperly calculated Termination Grant and with respect to the failure to credit Country Office service toward the award of pension benefits under the Gross Plan of the SRP. It is therefore unnecessary to reiterate those reasons.

4. The Applicant failed to exhaust the proper remedies within the Bank in a timely manner. Although he left the Country Office and transferred to Headquarters in Washington, D.C. in 1990, he did not file his claim with the PBAC until April 16, 2002, well beyond the pertinent time limit provided in the Staff Rules. Accordingly, the Tribunal lacks jurisdiction to decide the merits of the Applicant's claims, by virtue of the exhaustion requirement set forth in Article II, paragraph 2, of the Statute of the Tribunal.

Decision

For the above reasons, the Tribunal decides to dismiss the application.

/S/ Francisco Orrego Vicuña

Francisco Orrego Vicuña
President

/S/ Nassib G. Ziadé
Nassib G. Ziadé
Executive Secretary

At London, England, December 14, 2002