

Decision No. 193

Jasbir Chhabra (No. 2),  
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 September 16, 1997, by Jasbir Chhabra against the International Bank for Reconstruction and Development. The usual exchange of pleadings took place. The case was listed on March 12, 1998.

2. This is an application contesting the decision of the Workers' Compensation Administrative Review Panel ("the Review Panel") dismissing the Applicant's claim for, inter alia, reimbursement of her medical expenses for illnesses allegedly suffered by her in the course of her employment with the Respondent.

3. The Applicant's claim is made under the Respondent's Workers' Compensation Program as set out in Staff Rule 6.11, which provides in part:

This Rule sets forth a workers' compensation program which provides staff members with compensation and other benefits in the event of illness, injury or death arising out of and in the course of employment with the Bank Group.

The basic principle for determining whether medical expenses resulting from an illness are compensable by the Bank is set forth in Staff Rule 6.11, paragraph 2.01, which provides in part:

The Claims Administrator shall determine whether an injury, illness or death arises out of and in the course of employment and otherwise administer the workers' compensation program in accordance with the provisions of the D.C. Act specified in this Rule, except that where the provisions of this Rule differ from the provisions of the D.C. Act specified, the provisions of this Rule shall govern. Provisions of the D.C. Act not specified in this Rule shall not apply.

4. The Applicant's claim is that her illnesses arose "out of and in the course of" her employment with the Respondent. She alleges that during her service in the Country Operations Division of the Asia Region, Country Department II, from 1987 to 1990, she was harassed and discriminated against by the Division Chief and the Principal Economist and that, as her work environment grew increasingly hostile, she suffered in 1990 a "severe neurological and immunological disorder with various physical manifestations."

5. The Applicant produced medical reports from various physicians and specialists who treated her during 1990 in support of her claim which was filed with the Claims Administrator in January 1991. The Claims Administrator dismissed her claim on the ground that the evidence did not establish a compensable illness arising out of and in the course of employment with the Respondent.

6. The Applicant sought from the Review Panel an administrative review of the decision of the Claims Administrator. The Review Panel concluded that on an application of the objective test applied by the District of Columbia Court of Appeals in workers' compensation cases under the D.C. Act, there was no causal relationship between the Applicant's employment by the Respondent and her illnesses, so that the Applicant's illnesses were not compensable. It therefore dismissed the Applicant's claim and found that "the conclusion reached by the Claims Administrator was correct and supported by substantial evidence."

7. The case now comes on appeal to this Tribunal in accordance with Staff Rule 6.11, paragraph 12.04, which provides for appeal to, or review by, this Tribunal of decisions of the Review Panel. The task of this Tribunal is limited to reviewing the decision of the Review Panel, by reference to the evidence before that body, with a view to determining whether the conclusion reached by the Review Panel could be reasonably sustained on the basis of that evidence and also whether the Review Panel has acted in accordance with the relevant legal rules and procedural requirements.

8. It is necessary to have in mind the governing principle as established by the Court of Appeals for the District of Columbia in cases arising under the District's workers' compensation statute. The Court of Appeals, in several decisions, has consistently articulated and applied what has come to be known as an "objective" test for situations in which a medical claimant is unusually susceptible to certain illnesses resulting from work-related stress: "[T]he relevant inquiry 'focuses on whether the stresses of the job were so great that they could have caused harm to the average worker.' . . . . Thus, to be successful, a claimant must establish that a particular incident or situation at work was a significant stressor that could reasonably be expected to affect a person of ordinary sensibilities in the same way that it affected the claimant." *Sturgis v. Dist. of Columbia Dept. of Employment Services*, 629 A.2d 547, 551-552 (1993). "[T]he claimant must show that actual conditions of employment, as determined by an objective standard and not merely the claimant's subjective perception of his working conditions, were the cause of his emotional injury. The objective standard is satisfied where the claimant shows that the actual working conditions could have caused similar emotional injury in a person who was not significantly predisposed to such injury." *Spartin v. Dist. of Columbia Dept. of Employment Services*, 584 A.2d 564, 568 (1990). Although the Applicant contends that this standard is meant to apply only to situations in which an employee suffers emotional injury, but does not apply to cases such as hers in which physical illness results, the pertinent decisions in the District of Columbia lend no support to this distinction.

9. In applying the relevant legal standard, the Tribunal has considered the medical reports of the Applicant's several physicians, as well as that of the independent physician designated by the Claims Administrator to assist in the determination of the Applicant's claim. For the reasons set out below, the Tribunal concludes that the Applicant's claim cannot be sustained, that the Review Panel correctly applied the pertinent legal test, and that its findings were sufficiently supported by the medical evidence.

10. The principal illness for which the Applicant seeks compensation is rheumatoid arthritis, but she has also undergone treatment for hypothyroidism and pernicious anemia, along with other ailments. These three illnesses were characterized by some of the examining physicians as auto-immune diseases. The Applicant's claim is in substance that her working conditions caused or aggravated these illnesses.

11. It appears undisputed that at least the principal ailment, rheumatoid arthritis, originated not with the Applicant's employment but rather with the birth of her child in 1981. Most of the medical reports given by the Applicant's physicians do indeed point out a connection between the ongoing stress in the Applicant's work and the aggravation of her illnesses, but express considerable doubt as to the precise causal relationship between stress and auto-immune diseases. One physician stated that "[r]heumatoid arthritis is an autoimmune disease and the triggering mechanism is not well understood." Another said that, while the understanding of auto-immune diseases is not complete, "infections, environmental toxins, and stress have all been implicated." A third physician, the independent consultant designated by the Claims Administrator, considered not only that "there [was] no evidence to associate the onset of her medical condition and her work at the World Bank" but also that there was "no scientific evidence to substantiate the relationship of the initiation of rheumatoid arthritis and stress." He also stated that "documentation for an autoimmune etiology for her thyroid condition and pernicious anemia [was] lacking" and that there was "no causal relationship between her work and these illnesses."

12. Whether or not the Applicant's auto-immune conditions were indeed caused or aggravated by the stresses of her work for the Bank, her claim must fail because -- by the application of the objective standard that governs in the District of Columbia and in the Bank -- the Tribunal considers that there is no reasonable ground for rejecting the Review Panel's conclusion that her actual working conditions would not have caused a similar illness in an average staff member.

13. The Claims Administrator conducted interviews with nine staff members, most of whom were designated by the Applicant's attorney as knowledgeable regarding her working conditions. The consensus among those interviewed was that there was nothing unusual about her working conditions or unique about her position and that attempts were made by the Respondent to accommodate her medical conditions. A typical response was that the person interviewed "has seen many other employees under what she considered to be much more stressful circumstances not react the same as Ms. Chhabra. She does not think that the circumstances that she saw concerning the type of work or workload [of the Applicant] . . . were unique or unusual for someone of Ms. Chhabra's background and experience." But whatever may have been the Applicant's subjective perception of her work environment or her treatment by her supervisors, this perception is irrelevant in determining her entitlement to compensation by reference to the objective test. Indeed, the Tribunal has actually determined, in an earlier decision in which Ms. Chhabra had sought, among other things, rectification of her below norm merit awards, that her allegations of harassment and prejudice on the part of her supervisor were without evidentiary support (*Chhabra*, Decision No. 139 [1994], para. 51). It may be noted in this connection that one of the physicians consulted by the Applicant, although generally inclined to find some linkage between her ailments and the stresses of her job, observed: "The question has been raised whether ethnic and cultural differences between Mrs. Chhabra and her supervisors could have contributed to her stress. This is a highly subjective matter, and it is difficult to answer."

14. The Review Panel concluded that the Applicant "was significantly predisposed to development of the illnesses in question .... and that the evidence failed to establish that .... the actual working conditions could have caused a similar injury in a person or average worker who was not so significantly predisposed." In so concluding, the Review Panel committed no error of law or manifest error of evaluation nor did it otherwise abuse its discretion.

15. The Applicant also contends that the procedures followed by the Review Panel were flawed by the participation of two members of the Review Panel who were in positions of conflict of interest. The Tribunal notes that the composition of the Review Panel is expressly provided for in Staff Rule 6.11, paragraph 12.02. The two members of the Review Panel whose participation is challenged are ex officio members in their respective positions as Manager, Human Resources Services, and as Director, Health Services Department. The third member is a representative of the Staff Association. The Review Panel is an administrative body composed of persons whose work and experience are relevant to its function. That they may have been officials in the personnel or health services departments, or that they may have been involved in earlier stages of the case, does not disqualify them from participating in the administrative review. The Administrative Review Panel is viewed in the Staff Rules as a part of, and the final stage in, the process of administrative review, responsible for making a decision on behalf of the Bank that is then subject to appeal to this Tribunal. The Applicant's complaint on this ground is therefore not well-founded.

## DECISION

For the above reasons, the Tribunal unanimously dismisses the Applicant's application.

Elihu Lauterpacht

/S/ Elihu Lauterpacht  
President

Nassib G. Ziadé

/S/ Nassib G. Ziadé  
Executive Secretary

At London, England, May 15, 1998