



World Bank Administrative Tribunal

2016

Order No. 2016-2

**DH (No. 2),
Applicant**

v.

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

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

**DH (No. 2),
Applicant**

v.

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

1. This order is rendered by the Tribunal in plenary session, with the participation of Judges Stephen M. Schwebel (President), Mónica Pinto (Vice-President), Ahmed El-Kosheri, Andrew Burgess, Abdul G. Koroma, Mahnoush H. Arsanjani, and Marielle Cohen-Branche.
2. The Applicant requests that the Tribunal revise its judgment of her second application in *DH*, Decision No. 531 [2016] pursuant to Article XIII of the Tribunal's Statute.
3. In *DH*, the Tribunal held, *inter alia*, that: (i) the Applicant's 2013 Overall Performance Evaluation (OPE) was substantively flawed because the OPE ratings and her supervisor's overall comments were not supported by evidence, positive views were overlooked, and negative factors were given disproportionate weight; (ii) the Bank did not respect the Applicant's due process rights under the Staff Rules regarding her 2013 OPE; (iii) the Applicant was treated unfairly in her transfer to the Program Assistant position because it was based on her flawed performance evaluation; and (iv) the delayed notification of her eligibility for long-term disability and subsequent termination violated her due process rights and resulted in prejudice to her. The Tribunal did not review the Applicant's claims of discrimination, retaliation and career mismanagement because they were based on issues that had already been adjudicated in the Applicant's first application.
4. The Applicant invokes Article XIII of the Tribunal's Statute and requests revision of the Tribunal's judgment in *DH*.
5. In a letter dated 1 August 2016, the Applicant requested that the Tribunal "look into [her] case again," and take note of several "clarifications" provided in the letter. The Applicant also asked the Tribunal to "get [her] title 'Financial Assistant' back [...] which [she] held before being

reassigned [...] which the Tribunal has found tainted by irregularities.” The Executive Secretary responded in a letter dated 23 August 2016 that the Tribunal’s judgments are final and may only be reviewed when provisions of Article XIII of the Tribunal’s Statute have been met.

6. In a letter dated 1 September 2016, the Applicant responded to the Executive Secretary and argued that “it’s only fair to request the Bank to get [her] title ‘Financial Assistant’ or ‘Cofinancing Assistant’ back to [her]” because “it will be very unfair if [her] title does not reflect the responsibilities [she] had while working in the Bank.” She also stated that “[she] can forego other requests mentioned in [her] previous letter, however, the above are very important [...] and request the Tribunal to somehow deal with them to come to a closure.”

7. Pursuant to Article XI of the Tribunal’s Statute, “[j]udgments shall be final and without appeal.” It is well established in the Tribunal’s jurisprudence that the “rule of finality of the Tribunal’s judgments is essential to the operation of the Bank’s internal justice system. Once the Tribunal has spoken, that must end the matter.” *Venkataraman (No. 2)*, Order No. 2015-3 [2015] citing *Mpoy-Kamulayi (No. 7)*, Decision No. 477 [2013], para. 27. *See also, Skandera*, Decision No. 9 [1982], para. 7; *Kwakwa (No. 2)*, Decision No. 350 [2006], paras 18-20. In limited circumstances, the Tribunal may revise a judgment only in accordance with Article XIII which provides:

1. A party to a case in which a judgment has been delivered may, in the event of the discovery of a fact which by its nature might have had a decisive influence on the judgment of the Tribunal and which at the time the judgment was delivered was unknown both to the Tribunal and to that party, request the Tribunal, within a period of six months after that party acquired knowledge of such fact, to revise the judgment.

2. The request shall contain the information necessary to show that the conditions laid down in paragraph 1 of this Article have been complied with. It shall be accompanied by the original or a copy of all supporting documents.

8. The Tribunal noted in *Kwakwa (No. 2)* that the requirements of Article XIII “are not fulfilled unless the Tribunal is satisfied that newly discovered facts are potentially decisive.” In that decision the Tribunal also emphasized the limited application of Article XIII noting that “[t]o

ensure that Article XIII does not wreak havoc with the rule of finality, enshrined in Article XI, the former must be recognized as available only in exceptional circumstances.”

9. The Applicant’s second letter dated 1 September 2016 simply expressed her disappointment regarding the Tribunal’s decision not to change her job title or grant her promotion to Grade GD but does not include new facts that may have a decisive influence on *DH*.

10. The Tribunal concludes that there is no basis for a revision of *DH* because the Applicant failed to satisfy the conditions in Article XIII(1) of its Statute.

DECISION

The Applicant’s requests in her letters of 1 August 2016 and 1 September 2016 for revision of *DH* are summarily dismissed.

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

/S/Olufemi Elias
Olufemi Elias
Executive Secretary

At Washington, D.C., 4 November 2016