

**Decision No. 347**

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

**v.**

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

1. The application in this case was received on 24 October 2005. This judgment is rendered in plenary session, with the participation of Jan Paulsson, President, Robert A. Gorman, Francisco Orrego Vicuña, Sarah Christie and Florentino P. Feliciano, Judges.

2. The Applicant challenges the Bank's decision to declare his employment redundant.

**Background facts and procedural history**

3. The Applicant joined the Bank in 1989 as a Financial and Accounting Analyst. In 1991, he moved to the Treasury Department as an Accounting Officer. In 1995, he became part of the accounting staff of the new Treasury Accounting Division (TREAC) of the Treasury Department.

4. The Applicant worked in TREAC from 1995 to 2000 at Grade F. During this period, TREAC used a computer software called the Liability Management System (LMS) to track the Bank's borrowing activities. The Applicant was responsible for analyzing and reporting on the Bank's borrowings, and for noting errors and accounting problems resulting from use of the LMS software. His reports went to his supervisor, the Division Chief of TREAC.

5. According to the Applicant, his reports noted numerous amortization adjustment errors in the LMS system. His team submitted many requests for rectification of the system, but these could not all be met. Because of the problems and errors arising from the LMS software, management decided to replace LMS with a more up-to-date system called "Summit." The upgrade was to be implemented in January 1999.

6. In September 1997, two large amortization adjustment errors were found totaling, according to the Applicant, US\$69 million. The errors discovered delayed the Bank's financial statements for the first quarter of Fiscal Year 1998 and led to an investigation, initiated by the TREAC Division Chief, to identify the underlying reasons for the LMS errors.

7. The Division Chief reported to the Treasury Vice President (TREV) on 22 October 1997 that the "negative amortizations for this particular issue had been accumulating for at least several years and had not been detected." On 5 November 1997, the TREV and the Controller (CTRVP) reported to the President of the Bank about "Accounting Errors Pertaining to Borrowing and Swap Costs." This memorandum had been drafted by the Division Chief and was along lines similar to her October 1997 memorandum.

8. The Applicant stated that he and a colleague in the Borrowing Division pointed out to the Division Chief that her October 1997 report was misleading in suggesting that the amortization errors in the system had not been known previously. In fact, the Applicant and his colleague had regularly informed the Division Chief and supervisors about the system's errors. The Applicant was concerned that he would be personally blamed for failing to discover the errors.

9. In November 1997, the President of the Bank asked the Internal Auditing Department (IAD) to audit TREAC's accounting practices. The IAD issued its report the following year, concluding that a significant number of errors in LMS had been accumulating over the years, causing a net income overstatement of about US\$52 million. The report identified a number of causes of those errors, including system inadequacy, manual intervention to make adjustments, scarcity of staff to perform in-depth investigations, and lack of oversight. The report did not find misconduct on the part of any staff. It recommended that errors continue to be investigated and rectified. It also recommended that the department report "prudently but clearly" to senior management on the implementation of change.

10. Before IAD could issue its report, the Applicant formally complained to the Ethics Office on 13 February 1998 about a possible ethical violation by TREAC management. He alleged that his Division Chief had been previously aware of the LMS system errors, but had misrepresented the problem and used staff members as scapegoats.

11. The Ethics Office asked the IAD to examine the Applicant's complaint while carrying out the audit related to the LMS problems. The IAD investigation was concluded on 30 December 1998. IAD did not find any evidence of wrongdoing by the Division Chief.

12. The Applicant was unhappy working in TREAC. He affirms that he continued to be given a heavy workload in the period 1998-1999, but was nevertheless criticized for not doing enough. TREAC management discussed with him various options in respect of his future, including opportunities outside the Bank as well as reassignment within the Bank.

13. On 1 July 2000, the Applicant was reassigned to the Treasury Asset & Liability Division (TROAL) to work on the implementation of the Quantitative Risk Management (QRM) development project. QRM was a software program intended to provide a database and an analytical tool for modeling the Bank's finances and managing financial risks on the Bank's balance sheet. It was also intended for use by three vice presidencies in the Bank's Finance Complex (that is, the Treasurer's Office, the Controller's Office and the Strategy, Finance and Resource Management (SFR) Office). The development phase of QRM was scheduled to last about two years. If successful, QRM was to become part of the regular work program of the Treasurer's Office (TRE).

14. While in TROAL, according to the Bank, the Applicant's job performance at Level F was fully satisfactory, and in some respects superior. He did not, however, show the independent task management skills expected from persons at a higher level. Accordingly, he was not recommended for promotion to Level G during the 2001 and 2002 Overall Performance Evaluation (OPE) cycles.

15. Dissatisfied with his lack of promotion, the Applicant filed an appeal (Appeal No. 1238) with the Appeals Committee on 15 October 2002. He challenged his OPE for the period 1 April 2001 to 31 March 2002, and sought promotion to Grade H or compensation for "the Bank's long pattern of retaliation against [him]" as well as compensation for emotional distress, reimbursement of attorney's fees and costs, and assurances that the Bank will ensure his "future upward mobility."

16. On 23 April 2003, the Appeals Committee recommended that all of the Applicant's requests be denied. This recommendation was accepted by the Bank and communicated to the Applicant.

17. On 23 September 2003, the Applicant filed an application with the Tribunal, claiming that after he had complained about alleged misrepresentation by his Division Chief in reports to senior management, the Bank had retaliated against him by giving him poor OPEs, threatening him with termination of employment, exposing him to a hostile work environment, and denying him promotion. He asked that his unfavorable OPEs be stricken from his personnel file, that he be promoted to Grade G retroactive to July 2000, and that he be awarded the cost of pursuing a master's degree, as well as other compensation.

18. On 18 June 2004, by its judgment (*F*, Decision No. 313 [2004]), the Tribunal dismissed the Applicant's

principal claims but awarded modest payments to the Applicant because of some procedural shortcomings on the part of the Bank. The Tribunal concluded:

84. The Applicant has failed to establish most of his complaints. The allegation of retaliation is not proven. Nor has he established that there was any abuse of discretion in the assessments of his work performance and behavior. He has not established that he was unfairly denied promotion.

85. The Bank did not, however, live up to its obligation to respond to his request for administrative review in the time then specified by the Staff Rules. For this irregularity, the Bank should be ordered to make a modest payment. Although the application was fundamentally mis-conceived, the Tribunal is mindful that the Bank's indecisiveness contributed to the Applicant's litigious attitude. On that basis, the Tribunal deems that the Bank should be ordered to pay a similarly modest amount as a contribution to costs.

The Tribunal accordingly ordered compensation in the amount of US\$5,000, and costs of US\$3,000.

19. As noted earlier, the Applicant had been working on the Bank's QRM project since 2000. A number of problems with the QRM system surfaced during the implementation phase of the project. By the summer of 2003, staff questioned whether TRE should use the QRM software at all.

20. In August 2003, TRE decided to cease its participation in QRM by the end of September 2003. Since the Applicant had worked almost exclusively on the QRM project, it was apparent that he would soon be left without a work program.

21. According to the Bank, by early or mid-September 2003, the Director of the Treasury Operations Department and a Senior HR Officer met with the Applicant to discuss his future in TRE. They informed him that his position in TROAL would have to be abolished and that his employment might become redundant unless he was reassigned to another job. They also said that they would try to help him find another job in the Bank, but could not assure him that he could be so placed.

22. By the end of November 2003, it became clear that efforts to reassign the Applicant elsewhere in the Bank would not be successful. TRE decided to proceed to redundancy.

23. On 5 December 2003, the Applicant was orally informed by his Director that the Bank would declare his employment redundant. On 16 December, the then Vice President and Treasurer met with the Applicant and provided him with a Notice of Redundancy. The Notice states in relevant part:

[Y]our employment has become redundant with effect December 16, 2003. This decision has been taken in accordance with Staff Rule 7.01, paragraphs 8.02b and 8.03.

During your six month reassignment/termination notice period, you will be notified by Lotus Notes of any suitable vacancies in your type of appointment and grade. I would like to encourage you to work closely with your HR Team and the staff in the Job Search Center (JSC) in this endeavor. ... Should the job search efforts prove unsuccessful, on *June 16, 2004* your employment with the Bank will be terminated .... (Emphasis in original.)

24. During the six-month period immediately following the declaration of redundancy, the Applicant unsuccessfully applied for eight positions in the Bank. The Applicant's employment with the Bank ended on 14 June 2004.

25. On 14 October 2004, the Applicant filed a Statement of Appeal challenging the Bank's redundancy decision. He claimed that his employment had been terminated arbitrarily, and that he had been unfairly deprived of an opportunity for placement within the Bank because of what he described as his "whistle-blower activities," and his recourse to the Conflict Resolution System (CRS). The Applicant requested relief in the form of reinstatement and compensatory damages.

26. On 3 May 2005, after its usual procedure of hearing and consideration, the Appeals Committee issued its

report recommending that all of the Applicant's claims be denied. The Bank accepted the Committee's recommendations on 16 May 2005.

27. After several extensions of time granted by the Tribunal, the Applicant filed his current application on 24 October 2005. He raises three principal claims:

- a) that the redundancy decision was arbitrary for lack of proper justification under the Staff Rules of the Bank;
- b) that the Bank violated due process in failing to give him timely notice of the redundancy decision; and
- c) that the Bank violated the Staff Rules in failing to provide him genuine assistance in his job search.

### Arbitrariness

28. The Applicant contends firstly that under Staff Rule 7.01, paragraph 8.02(b), his prior position was susceptible to a lawful declaration of redundancy only if the *set of functions* that comprised his job, that is, conduct or implementation of the QRM system, was abolished. He asserts that the QRM program had not been totally abolished since, although management no longer desired to use QRM in TROAL, the abandonment of QRM was merely a matter of "preference, not necessity." QRM continued to be used in other offices of the Finance Complex. For the TROAL managers, the Applicant argues, the primary benefit of abandoning QRM was in fact his removal from the TROAL workforce.

29. The Applicant was the only person working full time on the QRM program in the TROAL. Upon conclusion of that program, the Applicant's functions would not be reassigned to other TRE staff because the QRM software would no longer be used there. In other words, in the view of the Applicant, eliminating the QRM from the TRE was synonymous with eliminating him as the sole employee involved in the QRM program.

30. The Bank explained that the QRM was canceled because it did not meet TRE's business needs. Even though more than US\$450,000 had been invested in the development of the system, QRM was generating errors and was regarded as generally unreliable. More accurate results could be produced by TRE staff using pre-existing software, such as Excel. And although QRM was intended to facilitate exchange of information between TRE and the Corporate Finance Department in SFR, QRM could not meet that objective because the two units used different models which were difficult to reconcile. By the summer of 2003, TRE staff were no longer using the tools provided by QRM. In the view of the Bank, continued TRE funding of the QRM would have been inefficient and wasteful, and inconsistent with prudent business practice and efficient administration.

31. It is a familiar proposition that the decision to declare a position redundant under the applicable Staff Rule is an exercise of discretion by the Bank. The Tribunal has in numerous judgments stressed that it will not review such a decision unless it constitutes an abuse of discretion, or was arbitrary, discriminatory, improperly motivated or carried out in disregard of fair and reasonable procedures. (*See e.g., Harou*, Decision No. 273 [2002], para. 27; *Martin del Campo*, Decision No. 292 [2003], para. 48; *Taborga*, Decision No. 297 [2003], para. 25; *Mahmoudi (No. 2)*, Decision No. 227 [2000], para. 24). Nevertheless:

[T]he implementation of the Staff Rules dealing with redundancy must be effected with strict observance of fair and transparent procedures lest managers pay no more than lip-service to the required standards; "prerogatives of discretion must be exercised exclusively for legitimate and genuine managerial considerations in the 'interests of efficient administration.'" (*Martin del Campo*, para. 49, citing *Yoon (No. 2)*, Decision No. 248 [2001], para. 28.)

32. The relevant Staff Rule 7.01 (Ending Employment), paragraph 8.02, provides as follows:

Employment may become redundant when the Bank Group determines in the interests of efficient administration, including the need to meet budgetary constraints, that:

- a. An entire organizational unit must be abolished;

b. A *specific position or set of functions performed by an individual* in an organizational unit *must be abolished*;

c. A position description has been revised, or the application of an occupational standard to the job has been changed, to the extent that the qualifications of the incumbent do not meet the requirements of the redesigned position;

d. Types or levels of positions must be reduced in number. (Emphasis added.)

Paragraph 8.02 is clear in specifying that what may be abolished is either a “specific position” or a “set of functions performed by an individual.” In the instant case, what was abolished literally was the specific position of the Applicant, and not necessarily the “set of functions performed by [him].” There is no dispute that the QRM system was abandoned in the TRE. The Bank does not deny that the QRM system remained in use by the Corporate Finance Division in SFR, apparently because the QRM satisfied its needs – which were not the same as those of the TROAL. The Applicant does not deny that implementation of the QRM system was lagging significantly, three years after its installation, and that staff could produce more accurate results more promptly by using the pre-existing systems. Nor does the Applicant gainsay that after the TRE ended its participation in the QRM system by 30 September 2003 it never again used the QRM. No staff in the TROAL, or indeed the whole TRE, took over or resumed the Applicant’s QRM functions. The Tribunal is not in a position to determine why the QRM system, while clearly inadequate for the needs of the TROAL, was regarded as satisfying the requirements of the Corporate Finance Division in SFR. The appropriateness of the continued use of QRM in the latter entity is preeminently a matter of technical and managerial appreciation and discretion. The Bank argues persuasively that it is not believable that the TRE would cancel a project that had cost more than US\$450,000 simply and exclusively to get rid of the Applicant.

33. The Tribunal concludes that a set of functions need not be abolished *Bank-wide* to create a legitimate basis for redundancy, *provided* that a genuine and reasonable effort is undertaken to place the affected staff member in a unit which continues to use the abolished functions. It will be seen below that the Bank did exercise reasonable efforts to transfer the Applicant to the Corporate Finance Division of the SFR, and elsewhere, but without success.

34. The Tribunal finds that the Applicant has not successfully discharged his burden of proving that the withdrawal of the TRE from the QRM system was arbitrary, discriminatory, or motivated by retaliation.

35. In asserting that he should not be made to carry the burden of proving that his redundancy was the result of retaliation by management for his “whistle-blowing” activities and his earlier recourse to the Conflict Resolution Services of the Bank, the Applicant pleads for a more flexible doctrine, to the effect that his burden of proof should be deemed satisfied if retaliation had been a “contributing factor” in the decision of the Bank to declare the Applicant’s position as redundant.

36. The Tribunal does not find it necessary to deal with the Applicant’s plea for a “flexible” approach to the burden of proof. Whether or not proof that retaliation was a “contributing factor in the decision of the Bank” is different from proof that such declaration was the result of retaliation, the fact remains that the Applicant has not established that retaliation on the part of the Bank management was a factor *at all* in reaching the decision to declare his position redundant.

37. The Applicant’s supposed “whistle-blowing activities” had taken place in 1998-1999, several years before the installation of the QRM system, and before management had found QRM to be unreliable. The Director of the Treasury Operations Department and the Manager of TROAL were not in the Bank back in 1998-1999. The Applicant has not suggested any reason why in 2003 the Applicant’s Director, the Senior HR Officer, the then Vice President and Treasurer, and the Manager of TROAL should have felt any desire or need to retaliate against the Applicant for the latter’s acts in respect of the Division Chief of TREAC in 1997-1998. That these managers knew, or may have known, about the Applicant’s 1998 complaint against the Division Chief is simply not enough to show even a *prima facie* intent to retaliate against the Applicant. The Tribunal is not convinced



that the Applicant had indeed engaged in “whistle-blowing activities.” With or without his complaint to the Ethics Office, the TRE would have been withdrawn from the QRM system, and there is therefore no causal link between his original criticism of the TRE and his redundancy five years later.

### Untimely notice

38. The Applicant claims that, to respect his due process rights, the Bank had a duty to provide him with information on the redundancy decision as early as possible. He alleges that the decision to withdraw from or abandon the QRM system was made by the TRE as early as July 2003. This decision was announced to other departments on 18 August 2003. He contends that the Bank did not inform him about the redundancy decision until December 2003, shortly before the then Vice President and Treasurer handed him the formal Notice of Redundancy on 16 December.

39. The Bank denies this contention, observing that sometime in early or mid- September 2003, the Applicant's Director and the Senior HR Officer had met with the Applicant to discuss his future in TRE. No written or electronic record of this meeting was submitted by the Bank. The Bank insists nevertheless that the Director and the Senior HR Officer had informed the Applicant that his position would be abolished, and that his employment might be declared redundant unless he was successfully reassigned to another job within the Bank. They also stated that they would try to help the Applicant find another position in TRE or elsewhere in the Bank, although they were not optimistic about his prospects. The Applicant denies that such a meeting with his Director and the Senior HR Officer took place.

40. Both the Director and the Senior HR Officer testified before the Appeals Committee that they had met with the Applicant and had informed him of the possibility of the termination of his employment unless another position within the Bank could be found for him. The then Vice President and Treasurer corroborated this testimony by stating that the management team of TRE had discussed in September 2003 the need to inform the Applicant of potential redundancy, and had assigned the Director and the Senior HR Officer to do so. The Manager of TROAL similarly corroborated the testimony of the Director and the Senior HR Officer. The Appeals Committee found the Director, the Senior HR Officer, the then Vice President and Treasurer, and the Manager of TROAL to be credible, and concluded that the Applicant had been notified that his career in the Bank was in jeopardy months before he was handed the official Notice of Redundancy on 16 December 2003. The Applicant has not submitted any evidence to invalidate the record before the Appeals Committee.

41. The Applicant contends nevertheless that, even assuming that the Director and the Senior HR Officer had in fact met with him in September 2003, the Bank has been unable to offer “any good faith explanation” why it should have told him that redundancy was a mere “possibility” although a definite decision to withdraw from the QRM had been made in the preceding month, i.e., in August 2003. The Applicant apparently disbelieves, and makes light of, the Bank's explanation that it had spoken of the possibility rather than the certainty of redundancy because the Applicant's Director wished first to explore the possibility of reassigning the Applicant to other parts of the Bank where the QRM project was continuing. The Applicant states that the Director had not told him anything about a job search for him prior to the declaration of redundancy.

42. The Tribunal is not persuaded by the Applicant's argument. There appears to be some confusion in the mind of the Applicant between, on the one hand, the withdrawal of the TRE from the QRM system, which ended the work program of the Applicant in the TRE, and, on the other hand, the redundancy of his position, which was formally declared only after efforts to reassign him either in TRE or other parts of the Bank had failed. By itself, the withdrawal of the TRE from the QRM system need not have led to the declaration of the redundancy of the Applicant's position in TRE, nor *a fortiori* to the termination of his employment, had he been successfully reassigned elsewhere in TRE or in another part of the Bank. The record shows that there was a preliminary search for an alternative position for the Applicant *before* the issuance of the formal Notice of Redundancy on 16 December 2003. Thereafter, the period of six months for locating some other position for the Applicant within the Bank began. The termination of the Applicant's employment with the Bank would not have materialized had that subsequent job search been fruitful.

43. The Tribunal concludes that the Applicant knew, or should have known, by the beginning of summer 2003 that the QRM project was about to be ended. He was the one staff member almost wholly and continuously engaged in implementing the QRM system. He routinely discussed the QRM system with his colleagues. Serious questions as to the adequacy or reliability of the QRM system with respect to the tasks of TRE had come to light. In view of the deficiencies of the QRM, the staff had gone back to pre-existing programs. The Applicant had in fact asked the Director and later the Manager of TROAL what would happen to his job in case of withdrawal from the QRM system. The Applicant could have begun his own job search well before the Director explicitly informed him in December 2003 of the forthcoming notice of redundancy. The Applicant stopped working in September 2003 upon the withdrawal of the TRE from the QRM system. The record indicates that he remained in the TRE, apparently waiting to be informed about either reassignment elsewhere or the formal declaration of redundancy.

44. The Bank indicated that it was particularly desirous of locating a reassignment post for the Applicant considering that he had previously brought proceedings against the Bank before the Appeals Committee and the Tribunal. The Bank might have expressly informed the Applicant, before the declaration of redundancy, of its efforts to reassign the Applicant to some other position in the Bank. The record shows that on 8 September 2003, the Applicant's Director asked the Director of Corporate Finance whether he had any position for the Applicant. The Director of Corporate Finance responded that he did not have any such opening and in fact already had four staff members doing the work for which the Applicant was possibly qualified. The Applicant's Director also contacted the Bank's Vice President and Controller and the Director of the Accounting Department of the Bank about possible placement for the Applicant. These two offices did not have any suitable position either.

45. The Tribunal accepts that the Bank was hoping to avoid having to separate the Applicant from the service of the Bank notwithstanding the withdrawal of TRE from the QRM system. Under these circumstances, the Tribunal considers that there was no arbitrary or ill-motivated failure to notify the Applicant of the impending declaration of redundancy.

46. Nor does it appear to the Tribunal that the Applicant has suffered prejudice by reason of the desire of the Bank to avoid formal declaration of redundancy by first securing a reassignment. The Bank was here seeking to comply with the requirements of Principle 7.1(b) of the Principles of Staff Employment which states in relevant part as follows:

Staff members separated at the initiative of the Organizations have the right to be notified in writing of the decision and the reason for it, which shall be based on the following:

...

iii. when the Organizations determine that a position or positions are no longer necessary, or that the responsibilities of a position have changed so that the staff member is not qualified to fill it, provided that no vacant position in the same type of appointment exists for which the Organizations determine that the staff member is eligible and has the required qualifications or for which he or she can be retrained in a reasonable period of time ....

In *Njovens*, Decision No. 294 [2003], para. 37, the Tribunal noted that:

[T]here is no specific rule providing for a given period of advance warning in respect of decisions that might affect a staff member in a redundancy process. However, fairness and reasonableness dictate that, as stated in *Garcia-Mujica*, adequate information should be provided to the concerned staff member with "all possible anticipation." This is particularly so when the Bank is aware of the likelihood of redundancy substantially in advance of it being decided upon and implemented.

47. The Tribunal considers that in the circumstances of the present case, the Bank violated neither the requirement of Principle 7 of the Principles of Staff Employment nor the standard set down in *Garcia-Mujica*. It is not easy to imagine how the Bank could have proceeded otherwise. A formal written notice of the *possibility* of redundancy, given while trying to relocate the Applicant, would not have helped. Indeed, the Applicant might

well have regarded it as a wrongful and self-fulfilling prophecy on the part of the Bank. (See *Bhatia*, Decision No. 303 [2003], para. 21.)

### Failure to assist in job search

48. The Applicant's third contention is that even if the Bank had acted correctly in declaring his employment redundant, it still failed to meet the minimum requirement of Staff Rule 7.01 (Ending Employment), paragraph 8.06 (Reassignment and Retraining). That paragraph reads as follows:

Following the effective date of the notice of redundancy and termination, the Bank Group will assist redundant staff in seeking another position within the Bank Group by providing access to the Job Search Center and the Job World. Redundant staff will be matched with existing vacancies in the Job World for consideration along with other applicants. This will include positions, the duties of which are commensurate with the staff member's qualifications, or for which the staff member can be retrained in a reasonable period of time.

The Notice of Redundancy given to the Applicant on 16 December 2003 stated among other things:

During your six month reassignment/termination notice period, you will be notified by Lotus Notes of any suitable vacancies in your type of appointment and grade. I would like to encourage you to work closely with your HR Team and the staff in the Job Search Center (JSC) in this endeavor. In this regard, you will be contacted by a Staff Services counselor. ... Should the job search efforts prove unsuccessful, on *June 16, 2004* your employment with the Bank will be terminated in accordance with Staff Rule 7.01, Section 8. Upon termination, you will be entitled to severance payments as specified in Staff Rule 7.01, paragraph 8.09 and certain other benefits.

*Pursuant to Staff Rule 6.06, paragraph 9.07, I have decided to place you on administrative leave during your six month job search period.* The administrative leave will begin immediately. TRE will provide you with a work station and computer during this period. During your administrative leave, you will not be required to report to work but will continue to accrue Bank benefits such as annual, sick and home leave, as well as education benefits. Although you will not be required to report for work, pursuant to Staff Rule 3.01, Section 6, in the event you decide [to] accept any external employment during Administrative Leave, you must first resign from the services of the Bank Group before you can commence the outside employment. You can also continue to take advantage of job search services, your HR Team and the JSC. (Emphasis in original.)

49. The Applicant contends that the Bank could not discharge its duty fairly to assist him in seeking another position merely by providing him access to the Job Search Center, and by making available to him a "lonely office equipped with a desk, telephone, and computer." The Applicant insists that such access and resources were not a substitute for "genuine efforts" to help him locate and succeed in a reassignment. But the Tribunal observes that the Bank gave the Applicant precisely the access to the Job Search Center and to the existing vacancies in the Job World that Staff Rule 7.01, paragraph 8.06, prescribes.

50. The Applicant also urges that the Bank did not adequately inform him about vacant positions and that his job search had been impaired by his alleged whistle-blowing and CRS initiatives.

51. The record shows that the Bank had in fact made a number of attempts to secure an alternative posting for the Applicant both before and after the declaration of redundancy. The steps taken before the Notice of Redundancy have been referred to above. After the declaration of redundancy, the Bank, among other things, notified the Applicant about job vacancies within the Bank by, e.g., e-mail listings of existing vacancies. Those vacancies, however, were mostly of senior positions such as senior financial officer, division chief and senior financial sector specialist. There were other vacancies for resource management officer, financial officer, investment officer, and financial sector specialist. Clearly, however, the Applicant, whose qualifications were in accounting, could not qualify for any of those positions. Notification of the Applicant of those vacancies was not even required from the Bank (*Marshall*, Decision No. 226 [2000], para. 35). The Applicant has not contended that there were other vacancies with respect to which he possessed the requisite qualifications, but of which he



was not notified. An HR consultant, met with the Applicant four times and provided him with career counseling and advice on job search strategy.

52. The Bank also provided the Applicant with external training. For instance, in 2003, the Applicant was provided with training in cost-benefit analysis and in 2004 in “SQL [Structured Query Language] Textbook.” The Applicant attended workshops on résumé writing, interviewing and redirecting his life after his Bank employment. The Bank moreover reimbursed the Applicant for expenses incurred in pursuing a Master of Science in Finance degree at the Johns Hopkins University, as well as expenses for preparations for the Certified Financial Analyst examinations.

53. Furthermore, after issuance of the Notice of Redundancy, the TRE was required to carry out substantial budgetary reductions. These reductions were mandated because the Bank’s medium-term and long-term borrowing had fallen significantly in recent years, from \$15 to \$20 million annually to \$10 to \$15 million, and because management had decided to shift resources away from the financial, administrative and corporate support functions to operational units. As a result, TRE was required to cut operating expenses and reduce staff. In addition to the Applicant’s post, those of nine other persons were declared redundant, and the services of two others were terminated when their appointments expired. New recruitment ceased. Five openings advertised in TRE in early 2004 were either left vacant or filled by internal transfers. SFR faced even deeper budget cuts than TRE.

54. The record also shows that the Applicant’s Director and the Senior HR Officer offered the Applicant personal assistance with any job-search efforts inside and outside the Bank. The Applicant never contacted either of them nor asked his managers for help.

55. In *Arellano (No. 2)*, Decision No. 161 [1997], para. 42, the Tribunal held that the obligation of the Respondent, in respect of assistance in search for reassignment to a suitable position following an applicant’s redundancy, “is not to reassign staff members whose employment was declared redundant under Staff Rule 7.01 but to try genuinely to find such staff members alternative positions for which they are qualified. It is an obligation to make an effort; it is not an obligation to ensure the success of such effort.” In *Lee*, Decision No. 241 [2001], para. 44, after noting that the Applicant there had been matched to over 30 job postings and had submitted several applications, the Tribunal stated that the fact that “neither the efforts of the Applicant nor those of the Bank were successful does not mean that the Bank failed in assisting the Applicant in finding a new reassignment.” In *Marshall*, the Tribunal noted that the job-search exercise requires efforts from both the Applicant and the Bank. Both parties must “pursue with reasonable initiative and effort the task of finding a position for the Applicant immediately before and after the effective date of [a] redundancy.” (*Marshall*, Decision No. 226 [2000], paras. 45, 47; see also *Jakub*, Decision No. 321 [2004], para. 58.)

56. Applying these standards to the present case, the Tribunal concludes that the Bank complied with Staff Rule 7.01.

## **Decision**

The Tribunal hereby dismisses the application.

/S/ Jan Paulsson  
Jan Paulsson  
President

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

At Washington, DC, 26 May 2006