

Decision No. 302

Monica Fidel,
Applicant

v.

International Bank for Reconstruction
and Development,
Respondent

1. The World Bank Administrative Tribunal has been seized of an application, received on April 2, 2003, by Monica Fidel against the International Bank for Reconstruction and Development. The case has been decided by a Panel of the Tribunal, established in accordance with Article V(2) of its Statute, and composed of Bola A. Ajibola (a Vice President of the Tribunal) as President, Jan Paulsson and Florentino P. Feliciano, Judges. The usual exchange of pleadings took place. The case was listed on October 3, 2003.

2. The Applicant contends that the declaration of redundancy of her position lacked a clear and legitimate business rationale, that the process followed in implementing the redundancy decision was mechanistic and flawed by subjective judgment, and that she was treated unfairly in not being offered alternative employment.

The relevant facts

3. The Applicant joined the Bank as a typist in 1970. She resigned from her position in 1974 but returned to the Bank in 1983 on a temporary assignment as a secretary. In August 1984, she received a regular appointment. After several promotions, the Applicant was hired in September 1993 by the Latin American and Caribbean Region (hereinafter referred to as “the Region”). She received positive performance evaluations and was promoted on several occasions. By the time relevant to her grievance, the Applicant was a Public Sector Specialist in the Region’s Public Sector Group (“the Sector Group”), one of the four Sector Groups which constituted the Region’s Poverty Reduction and Economic Management Department (“the Department”).

4. On June 30, 2000, the very last day of fiscal year 2000, the Region learned of a large and unanticipated budget overrun for the year. This precipitated a state of crisis which led to a number of redundancies described in *Antonio Martin del Campo* (Decision No. 292 [2003]) (“*Martin del Campo*”). The Applicant’s position, along with those of Mr. Martin del Campo and five other members of their Sector Group, was in due course declared redundant

5. By the time the Applicant filed her grievance with the Appeals Committee, on January 29, 2002, Mr. Martin del Campo’s appeal had already been heard. The Appeals Committee recommended the denial of his claims, with, however, payment of attorney’s fees due to what it considered the “difficult and unique circumstances” at the origin of the appeal. The Applicant’s appeal was heard on September 25, 2002. On November 21, 2002, the Appeals Committee concluded that the redundancy process had been in conformity with the Staff Rules and that the Applicant’s particular redundancy was “taken in the interests of efficient administration.” On the other hand, by a 2-to-1 majority the Appeals Committee stated that the failure to consider her for a vacant lower-level position, which she had indicated she would be willing to take, “rises to the level of arbitrariness” and should result in “compensatory damages” in the amount of three months’ salary (plus fees and expenses relating to the appeal). The dissenting member observed that there had been a managerial decision, taken in the best interests of the institution, not to fill the vacant position at all, and thus to help create a “cushion” to avoid another budget overrun.

6. The Bank accepted the Appeals Committee’s recommendations, but the Applicant decided to take her

grievance further. By the time she filed her application on April 2, 2003, Mr. Martin del Campo's case before the Tribunal was already listed. *Martin del Campo* was handed down on May 20, 2003, dismissing that grievance.

7. The Applicant's Reply was submitted on September 2, 2003. Although the Applicant and Mr. Martin del Campo were represented by the same counsel throughout, the Reply made no mention of *Martin del Campo*. Each applicant is entitled to have his or her case considered on the merits. Moreover, the Tribunal is not prepared to declare that its decisions have a *stare decisis* effect in all respects. Nevertheless, the Tribunal finds that the general arguments raised by the Applicant about the redundancy decision affecting the Sector Group as a whole do not justify reconsideration of the conclusions of *Martin del Campo*. Accordingly, the Applicant's arguments to the effect that the redundancy process as a whole was in violation of the Staff Rules are precluded by the Tribunal's holdings in *Martin del Campo*. There is, however, no impediment to the Applicant's complaint of injustice in her particular case, insofar as it was affected by what she contends was a lack of the diligence required in making career-ending decisions. Her allegations in this respect must be considered in the context of the distribution of levels of personnel in the Group.

8. At all material times, the Applicant's grade was GF. She questions what she perceives as the arbitrary selection of grades selected for redundancy. For example, she points to the hesitation at various levels of management (Group Sector or Regional), which had the result that an initial array involving six positions evenly distributed at grades GF, GG and GH (but none at GE) was altered to only one redundant GH, two redundant GG, and three redundant GF. The Departmental management considered that GG and GH-level staff were on the whole more likely to be able to take assignments beyond their then current work programs, and therefore had relatively higher fungibility (a criterion discussed in *Martin del Campo*). All GE level staff were to be retained.

9. The Applicant ranked in the middle of the five GF-level staff in her Sector Group in terms of relative performance. The two staff members who were ranked lower than the Applicant were, like her, also identified for redundancies. The Departmental Management Team did not consider the Applicant as fulfilling the fungibility criterion to the same extent as Mr. X and Mr. Z, two GF-level staff members who were therefore ranked higher.

10. On September 26, 2000, the Sector Group Manager met with the Applicant and informed her that her position would be declared redundant. The Regional Management Team, the Sector Board and the Severance Review Group still had to review the decision.

11. On September 28, 2000, there was a Region-level meeting where all of the redundancy cases in the Applicant's unit were discussed and confirmed. The Regional Management Team recommended that the Sector Group declare one additional position redundant.

12. On October 2, 2000, the Public Sector Board was requested to explore the possibilities of redeploying redundant staff members, including the Applicant, at its next meeting on October 4, 2000.

13. During that Public Sector Board meeting, the Sector Group Manager presented the names of the staff members whose posts had been considered for redundancy and the rationale for such considerations.

14. In the case of the Applicant, the members of the Board had no alternative positions to offer, then or in the foreseeable future, and they therefore agreed with the decision taken by the Sector Group. The Sector Group Manager explained the results of this meeting to the Applicant on October 5, 2000, and discussed the possibility of allowing the Applicant to remain in the Bank until she reached the age of 50 so that she could attain medical insurance benefits.

15. On October 6, 2000, a second Regional Management Team meeting was held. At this meeting, the Regional Management Team made the final decision to declare the Applicant's position redundant. The Regional Management Team agreed to offer the Applicant a Mutually Agreed Separation ("MAS") that would enable her to remain in the Bank until she reached the age of 50. Another GH-level position was also declared

redundant, so that the final number of redundancies and MASs within the Sector Group was seven: two level GH staff, two level GG staff and three level GF staff.

16. Meanwhile, on October 3, 2000, an Operations Analyst at level GE had notified the Sector Group Manager that she had accepted a position elsewhere in the Bank and would leave the Sector Group effective November 3, 2000. Upon learning of this transfer in mid-October 2000, the Applicant volunteered to accept this lower-level position. The Director of the Department ("the Director") and the Sector Group Manager, however, decided that the position should not be filled in order to ensure the sustainability of the savings intended to bring the unit's costs within its budget envelope.

17. On October 24, 2000, the Applicant informed the Sector Group Manager that she accepted the MAS option although she would like more time to think about the details of the agreement. Thereafter, between October 2000 and early April 2001, the Applicant had more meetings and discussions with her managers concerning the details of her MAS.

18. Around this time, the Applicant found out that of the two GF-level staff members who had been retained in the Sector Group, one (Mr. X) had already been promoted to level GG and the other (Mr. Z) was going to be promoted to that level as well. With the promotions of Mr. X and Mr. Z, while the Applicant was still in service, no GF-level staff remained in the Public Sector Group. A Young Professional had been secured on a rotation basis by the Sector Group to fill a GF-level position. About a year later, a GE-level staff member was promoted to level GF.

19. On April 6, 2001, the Applicant informed the Sector Group Manager that she would not sign the MAS as offered. The Department then proceeded with the redundancy as originally planned.

20. The Proposed Staff Severance Form ("Severance Review Form") for the redundancy of the Applicant's position was signed on April 24, 2001, by the Applicant's Director and by the Vice President of the Region. In the Form, it was explained that there were three positions at Headquarters at level GF. These were Public Sector Management Specialist positions, although this title included both Operations Officers and Public Sector Specialists. It was added that one of these positions had already been eliminated, and that the Applicant's was the second position proposed for elimination. It was further explained that the positions had been selected based on a reduction in work program commitments and a review of staffing. In addition, the Form stated that the Public Sector Group had determined that it could accomplish its work program with one Public Sector Management Specialist position at level GF. In the section of the Form entitled "Describe how the staff member was selected for redundancy," it was stated, among other things, that

[c]onsideration was given to Ms. Fidel's ability to engage the client in dialogue on policy issues and it was determined that she is not able to perform this now and it is not foreseen that she can take on this role in the future as compared to the higher ranking GF staff.

21. On April 30, 2001, the Request for Approval of Severance Payment was signed for the Applicant. On May 2, 2001, the Applicant received a Notice of Redundancy dated May 1, 2001, from the Regional Vice President. The Notice confirmed that the Applicant's employment had become redundant, and that this decision had been taken in accordance with Staff Rule 7.01, paras. 8.02(d) and 8.03. The Applicant was nevertheless to remain in Regular work and pay status through October 31, 2001.

22. The Applicant notified the Bank on October 22, 2001 that she waived any right to severance payments in order to take advantage of an unreduced pension at age 50. As noted, on January 29, 2002, she filed a Statement of Appeal against the decision to declare her position redundant.

Considerations

23. The decision to declare a position redundant under the applicable Staff Rules is an exercise of discretion by the Bank. The Tribunal will not review such a decision unless it constitutes an abuse of discretion, being

arbitrary, discriminatory, improperly motivated or carried out in violation of fair and reasonable procedures. (See *Harou*, Decision No. 273 [2002], para. 27; *Martin del Campo*, para. 48; *Taborga*, Decision No. 297 [2003], para. 25.)

24. However, as the Tribunal has noted in the past,

the 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.)

25. The applicable provisions are paras. 8.02(d) and 8.03 of Staff Rule 7.01. Paragraph 8.02(d) states:

Employment may become redundant when the Bank Group determines in the interests of efficient administration that: ...

(d) Specific types or levels of positions must be reduced in number.

26. Paragraph 8.03 describes the redundancy process and states in pertinent part:

Where positions are reduced in number under paragraph 8.02(d) above, the selection of staff members whose employment is redundant shall be made on the basis of managerial judgment about the skills needed by the Bank Group to carry out its work effectively, taking into account the following factors:

(a) The performance of staff members;

(b) Whether the abilities and experience of staff members can be used elsewhere in the Bank Group; and

(c) The existence of volunteers for termination who are willing to accept severance payments pursuant to paragraphs 8.08 or 8.09.

27. The Applicant asserts that the Sector Group Manager admitted that she had sought only an equitable distribution of six redundancies among three levels, with two per level, without a budget analysis. The Applicant also claims that she was a substitute for a GH-level staff member for whom a lead economist had lobbied at a September 19, 2000 meeting, and that she was added to the list of six redundancies when this higher-level staff member was temporarily removed from that list. Finally, the Applicant points out that the budget situation changed rapidly and by the time she was actually made redundant, the budget rationale had evaporated.

28. The Respondent asserts for its part that the distribution of redundancies was appropriately based on work program needs. The Respondent adds that the Sector Group managers discussed more than one option for selecting the distribution of reductions among grade levels and that they ultimately agreed that the rationale for the distribution should be based upon the work program needs of the department and the quality of service to be delivered, not on an even distribution among grades.

29. In reviewing the legitimacy and genuine character of a reorganization and redundant employment on the basis of work program needs, the Tribunal held in *Ezatkhah*, Decision No. 185 [1998], that “the factors determining whether a reorganization is efficient include not only the staff budget, but also the redefined work strategies and the priorities resulting from the new structure.” (Para. 14.) This principle was re-affirmed in *Garcia-Mujica*, Decision No. 192 [1998], where the Tribunal found that “the governing element is the redefined work strategies and priorities resulting from the overall new structure envisaged. Even if ... the staff budget had been increased, this would not preclude staff reductions based on a different business rationale.” (Para. 10.)

30. The question is therefore whether according to para. 8.02(d), there existed, in relation to the unit’s work program, a clear identification of “specific types or levels of positions,” as well as evidence of a thorough

analysis of the need for redundancies by “type” and “level,” which would put to rest any suspicion that the redundancy mechanism had been used as a pretext against the Applicant's interests.

31. As seen, although the Sector Group Manager initially had a target total of six staff to be declared redundant from three grade levels in order to carry out the necessary budget cuts (two GF-level, two GG-level, two GH-level), her proposal was not ultimately accepted. The main reason was the need to meet work program needs, and specifically, because the ability to task-manage and be an interlocutor with governments were important skills mostly possessed by staff at the GG and GH levels. It was believed that staff members at these levels could also perform the more routine tasks of the GF-level staff, while the latter might not be able to take on the more substantive task-management responsibilities. As the minutes of the meeting show, it was considered that the Applicant was a good GF-level performer but could not substitute for a Task Manager, particularly in leading dialogue with governments. Under this rationale, the position of one higher-level, GH-level, staff was not included in the list of redundancies and the Applicant's name was added.

32. The Tribunal finds that at a general level there is no evidence of impropriety or improper motive in the original plan's distribution of redundancies in this manner. Although the Sector Group Manager had initially proposed to distribute the number of redundancies in equal numbers per grade level, the explanation given for the rejection of this proposal was reasonable. Indeed, if the initial proposal had been accepted, the distribution of redundancies would have appeared artificial rather than based on work program needs.

33. In *Martin del Campo*, which dealt with the redundancy of a GH-level staff member in the Sector Group, the Tribunal found that the declaration of the redundancy of his position was not an abuse of discretion, but noted at para. 70 that “[t]here were undoubtedly aspects of the process that reflect haste in its implementation.” The Tribunal also observed that:

Clearer identification of “specific types or levels of positions,” as well as evidence of specific analysis of the need for redundancy by “type” and “level,” could have established beyond peradventure the managers' respect for para. 8.02(d), and dispelled any suggestion that the redundancy mechanism was used as a pretext against the Applicant's interests.

(*Id.* at para. 63.)

34. While the Tribunal in *Martin del Campo* was satisfied that there had been no pretext behind the redundancy of his position, the Tribunal finds that the specific circumstances of the Applicant's case, and the overall management of the redundancy of her position, were different and resulted in unfair treatment.

35. In particular, the Tribunal finds that significant contemporaneous or immediately subsequent staff changes in the Sector Group compromised the fairness of the consideration given to the Applicant's particular case.

36. At the GF level, the positions of three staff members in the Sector Group, including the Applicant, were eliminated after comparisons of their relative performance and fungibility pursuant to Staff Rule 7.01, para. 8.03. Of the two GF-level staff members whose positions were retained, Mr. X was promoted to level GG on October 13, 2000 with retroactive effect to July 1, 2000 and Mr. Z was promoted to level GG on August 2, 2001, with retroactive effect to July 1, 2001. As noted above, GF-level tasks were carried out by a Young Professional who was present on a rotation basis in the Sector Group and had been hired before the Applicant's employment terminated, and, about a year later, a GE-level staff member was promoted to level GF. Furthermore, although according to the original business plan no position at level GE was to be declared redundant as they were all deemed essential to the restructured unit's needs, when a GE-level staff position became vacant in early November 2000, it was left unfilled in order to maintain the sustainability of the cost savings strategy.

37. The Respondent has sought to justify these staff changes on the basis of budget constraints, and explains that the promotion of the two retained level GF staff – after the implementation of the redundancies – to level GG did not result in the cost savings needed to retain the Applicant's position.

38. The Applicant complains in this respect that, at the time of the determination of the redundancies, she was unfairly compared to Mr. X, who was a GF-level staff in name only, as his promotion to level GG was merely awaiting management's approval. She states that as her manager had agreed to retain two GF-level staff to carry out the unit's work program, she should have been retained instead of Mr. X, who was already a de facto GG-level staff.

39. The Respondent retorts that at the time of staff comparisons, Mr. X was not officially a level GG staff, as his promotion had not been approved. The Respondent further points out that when management examined the staff roster, it did so in order to determine not which staff should stay but which staff should be declared redundant in order to achieve the necessary budget cuts. Therefore, even if the GF-level staff ranked at the top of the list of the staff roster who were subsequently promoted to level GG were removed, the Respondent argues that it would still have had to select the three staff members at the bottom of the list for redundancy, including the Applicant.

40. The Respondent's argument would be logical if the reduction of positions were based solely on budget reasons, i.e. without consideration of work program needs. But it is simply inconceivable that a redundancy program could be implemented with regard to no other factor than budget cutting. If that were the case, there would be no impediment to eliminating all positions at the top grades, and then proceeding downward until the economic objective were attained. It is true that this procedure would yield the least number of redundancies because the elimination of a lesser number of higher salaries suffices to reach any given magnitude of savings, but it is obviously nonsensical. Any organization needs a mix of abilities at different levels.

41. Indeed, the rationale for redundancies as explained in a meeting of the Departmental Management Team on September 19, 2000 was not that there was *no* need for GF-level staff to deliver the work program. If that had been the case, all GF-level positions should have been declared redundant and their duties would have been absorbed into the workloads of other staff. More of the higher-level positions would have then arguably been retained. The articulated rationale for redundancies led to the recognition of a need to cut a larger number of GF-level staff in order to keep more GH and GG-level staff, as staff at these levels could better deliver the unit's work program. This is precisely why in the September 19, 2000 meeting, the Applicant's name was added to the list of redundancies and the name of a GH-level staff member was removed. But on the face of it there must have been a need for GF-level staff, since two GF-level staff members (Mr. X and Mr. Z) were retained.

42. The Tribunal is therefore concerned by management's failure to take account of a very important factor in the determination of redundancies, namely the imminent promotion of one of the two retained GF-level staff (Mr. X) to level GG. In this respect, the Tribunal has in several cases stressed the importance of taking into account all relevant factors before arriving at an administrative decision. (See *Lysy*, Decision No. 211 [1999], paras. 68-70; *Niedzwiecki*, Decision No. 189 [1998], paras. 21- 22; and *Romain (No. 2)*, Decision No. 164 [1997], paras. 19 and 20.)

43. Both the Sector Group Manager and the Director knew or ought to have known of the imminent promotion of Mr. X, even though their testimony before the Appeals Committee suggests that they only became aware of the promotion issue after the determination of redundancies. The Sector Group Manager knew about the pending promotion of Mr. X since July 2000; action on her part was to follow in this regard. Furthermore, the Director had been clearly notified by his Office Manager on September 24, 2000, before the first and second Regional Management Team meetings, where redundancies were discussed and approved, that there were pending actions that would affect the budget for FY01, one being the promotion of Mr. X to level GG.

44. The Tribunal notes that even though Mr. X was not officially at level GG until his promotion was approved in October 2000, this promotion was made retroactive to July 2000, and Mr. X was, de facto, at that level at the time of the relevant comparisons of staff performance and the decisions on redundancies. Moreover, the Sector Group Manager appears to have admitted in her testimony that Mr. X's promotion to another level was not factored into the ranking system at the time of the performance and fungibility comparisons in September 2000.

45. The fact that Mr. X's imminent promotion was a relevant factor disregarded by management is important for a number of reasons related both to substance and procedure. On the substantive level, the Tribunal notes that Mr. X was, in fact, retained in the unit because he was considered a GF-level staff at the time of the comparisons and was put in the pool of the other GF-level staff in order to be compared with them. Therefore, the fact that he was compared and retained in the GF category in principle should indicate that he was retained in order to carry out the work program of GF-level staff.

46. If Mr. X was expected to carry out the work program of GG-level staff immediately after the reorganization, he should have been compared with them. Indeed, had his promotion been processed and cleared earlier he would have certainly been at the GG-level and would have been compared with staff at that level in order to determine whether he would be retained with other GG-level staff. As a result, the outcome of the final redundancy decisions might have been different. The possibility exists that the Applicant might have then been retained to deliver the work program as, she was the GF-level staff member ranked in the middle of the five GF-level staff members, and Mr. X's position might have been declared redundant at the GG level. The treatment of Mr. X's status raises also a question of improper motive. Mr. X in all likelihood benefited by his temporary GF-level status, since immediately after the reorganization he was officially promoted to the level GG category in which two other positions had just been declared redundant. To be clear: there is a logical inference that he benefited from being compared to a lower-level cohort (GF) than the one in which he would have been the most recent addition and thus more vulnerable (GG). While there is no proof of improper motive, the circumstances are such that they could have camouflaged personal preferences.

47. On the procedural level, the Tribunal finds that comparing Mr. X's performance with that of the Applicant, under Staff Rule 7.01, para. 8.03(a), was a violation of proper procedure under the circumstances. The Applicant was improperly compared to a staff member who had virtually been promoted to level GG. Similarly, it was improper to compare the Applicant on the basis of fungibility, under Staff Rule 7.01, para. 8.03(b), with a staff member who was de facto at a higher level, as it was on the basis of this comparison that the Applicant's position was declared redundant and Mr. X's position was retained. In addressing the method used to identify the positions to be made redundant in the Applicant's unit, the Tribunal stressed in *Martin del Campo* that "[w]hat matters is that the requirements of due process are met, and that forms are not used to cover improper motives." (Para. 65.) The Tribunal finds that because of this unfair comparison in the Applicant's case, an apparently reasonable and legitimate redundancy process was vitiated by irregularities with respect to the Applicant, contrary to the Tribunal's finding in the applicant's case in *Martin del Campo*.

48. In sum, the Tribunal finds that the imminent promotion of Mr. X to level GG was a material fact which could have had an influence in the final determination of redundancies based on work program needs. The management's failure to take this fact properly into account, and to follow proper procedure, resulted in unfair treatment of the Applicant. Furthermore, the fact that clearer identification of "level" and "types" of positions was obviously not made in order to establish how the unit's work program would be carried makes it difficult to determine that the elimination of the Applicant's post was not pretextual.

49. Moreover, there is the matter of the vacancy created about a month after the redundancy of the Applicant's position was approved, when an Operations Analyst at level GE transferred to another post in the Bank. This staff member notified the Sector Group Manager of her upcoming transfer on October 3, 2000, before the October 6, 2000 meeting during which all the redundancies were approved. Although the Sector Group Manager never announced that this position would be reduced, the Director subsequently decided not to fill the position in order to effect further budget cuts.

50. The fact that this position was not filled puts into doubt the thoroughness of management's analysis of staffing needs at the GE level, and its effect on the identification of the Applicant's position for reduction. The decision that the October 6, 2000 meeting made on the approval of redundancies thus failed to take into account an important fact which might have had a decisive influence on the final identification of approved redundancies. The failure to take into account such a fact creates the impression that the initial rationale for retaining all GE-level positions might have been a pretext to have the Applicant's position declared redundant instead of a GE-level position being so declared.

51. The Tribunal finds that the decision of the Director not to offer the Applicant the opportunity to fill the position was flawed, as it allows the inference that the reduction of the Applicant's position was not based on work program needs but rather on other motivations. As pointed out above, a mere invocation of the need to cut costs is inadequate since a complex organization like the Bank must cut costs selectively. This is not a matter of arithmetic, but fairness and efficient administration.

52. A final element of the Applicant's complaint is of lesser magnitude and would not in itself have sufficed to cast doubt on the legitimacy of the redundancy of the Applicant's position. This is the matter of the promotion of the other retained GF-level staff member, Mr. Z, to a level GG position a few months after the signing of the Applicant's Severance Review Form and the Notice of Redundancy of her position. The Applicant's Severance Review Form was signed on April 24, 2001 after the failure of negotiations between her and the Bank to reach an MAS agreement. The Tribunal notes that the Severance Review Form clearly documented that there was a need for a Public Sector Management position at level GF to fulfill the Sector Group's work program, and justified the Applicant's redundancy on the basis that Mr. Z was the GF-level staff occupying such a position. However, according to the Appeals Committee Report, Mr. Z was promoted to level GG in August 2001, with retroactive effect to July 2001, barely three months after the Severance Review Form requesting the Applicant's redundancy had been signed.

53. The Tribunal finds that the Applicant's managers should reasonably have been aware of the promotion of Mr. Z three months before it took effect. The question therefore is why, if the Applicant's managers knew, or at least ought to have known, that with the upcoming promotion of Mr. Z and the Applicant's redundancy there would be no staff occupying GF-level positions despite the clearly recorded need for at least one such staff to deliver the unit's work program, they decided to proceed with both actions. Mr. Z's promotion, only a few months after the official request for the Applicant's redundancy, raises questions regarding management's failure properly to identify types and levels of positions and its possible abuse of form in order to cover improper motives. (*See Martin del Campo*, paras. 63 and 65.)

54. Given the totality of the circumstances, the Tribunal finds that the decision on the Applicant's redundancy did not adequately take account of work program needs in the interests of efficient administration, as required by Staff Rule 7.01, para. 8.02(d). The Respondent failed to take account of essential factors when the Applicant's position was initially declared redundant. Furthermore, the managers did not take adequate care to ensure that the Applicant's redundancy could not be interpreted as pretextual.

55. The Tribunal perfectly understands that the budget crisis in the Department was so severe that management had to act quickly. Flexibility in dealing with changing work demands in light of overriding budget constraints is permissible. Managers who are put in the unenviable position of having to implement a redundancy program have a difficult task, and they may well feel that it is impossible to achieve a non-controversial outcome. None of these considerations, however, can overcome the need to respect requirements of fairness and transparency when terminating the careers of dedicated and blameless staff members. In this case, that means that the managers are to be held to an obligation not to compromise the legitimacy of the development and articulation of a business plan that would satisfy para. 8.02(d).

56. The Tribunal finds no merit in any other claim of the Applicant. In particular, with regard to the Applicant's contention that she was treated unfairly in connection with the negotiation for an MAS agreement, the Tribunal notes that the Respondent agreed from the beginning to offer the Applicant the possibility of an MAS which would permit her to remain in the Bank until she reached the age of 50, and to keep her medical benefits. Moreover, the Respondent gave the Applicant ample time to consider the MAS option; she was placed on administrative leave and allowed to delay her decision, thus enabling her to refuse the MAS and proceed with the redundancy while keeping her medical benefits. The Tribunal finds that the Applicant's claim of unfair treatment in this respect is unfounded.

57. For the above reasons, the Tribunal awards compensation to the Applicant in the amount of fifteen months' net salary. The compensation already awarded to her following the Appeals Committee's recommendations will

be deducted from the above amount. The Tribunal will also award costs on account of this application in the amount of \$15,000.

Decision

For the above reasons, the Tribunal decides that:

- (i) the Respondent shall pay the Applicant compensation in the amount of fifteen months' net salary minus the amount of compensation already awarded on the acceptance of the Appeals Committee's recommendations;
- (ii) the Respondent shall pay the Applicant costs in the amount of \$15,000; and
- (iii) all other pleas shall be dismissed.

/S/Bola A. Ajibola
Bola A. Ajibola
President

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

At Washington, DC, December 12, 2003