

Decision No. 307

Ghulam Rasool Khan,
Applicant

v.

International Bank for Reconstruction
and Development,
Respondent

1. The World Bank Administrative Tribunal has been seized of an application, received on June 12, 2003, by Ghulam Rasool Khan 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. A jurisdictional objection having been raised by the Respondent, the exchange of pleadings at this stage has been devoted to this issue. The case was listed on September 29, 2003.

2. The Applicant was employed as a Driver in the Bank's Pakistan Country Office on March 1, 1959. On January 10, 2001, he accepted a mutually agreed separation package which included the words:

In accepting these terms and conditions, you fully and finally settle and release all claims you might otherwise have against the Bank Group arising out of circumstances occurring or decisions taken on or before the date of your acceptance.

3. Pursuant to this agreement, the Applicant was given a termination grant on March 27, 2001. The grant was calculated by reference to the Applicant's years of service from August 1, 1971.

4. On January 8, 2002, the Applicant wrote to the Vice President of the South Asia Region to request that his years of service from 1959 to 1971 also be recognized for the purposes of computing his grant. On February 26, 2002, the Acting Vice President responded that according to the Bank's records, the Applicant had been hired on a temporary basis in 1959, that he had not been converted to a regular position until 1971, and that the period of temporary appointment did not count for purposes of the grant.

5. The Applicant filed an appeal on June 11, 2002. The Bank objected, *inter alia*, that the complaint was untimely, for failure to pursue the matter within 90 days of his receipt of the grant. The Appeals Committee dismissed the case on this ground on March 27, 2003.

6. The Bank's letter of February 26, 2002, was not a new administrative decision. The Tribunal has held that a reconfirmation of an earlier administrative decision does not restart the 90-day time period. (See, e.g. *Mahmoudi* (No. 4), Decision No. 259 [2001], para. 8.)

7. In order to present an admissible petition, the Applicant had to pursue his grievance within 90 days of receipt of his termination grant on March 27, 2001.

8. The Applicant argues that he is a "poor low paid ex-employee" seeking to obtain the correction of a "proven clear cut error" which has resulted in his being deprived of 12 years of service benefit. Ignorance of the Staff Rule is not an excuse. The time limits are neither complex nor obscure. Nor are there special circumstances which militate in favor of an exception under Article II of the Tribunal's Statute, since the Applicant has not produced any records demonstrating that he was hired on a permanent basis in 1959. The Tribunal is not impressed by a letter from 1992 in support of a loan application to a commercial bank in which the Bank's local Acting Chief, in order to assist the Applicant, mentions that he "is a regular employee of this Mission since March 1, 1959." Such a communication to a third party cannot be taken as a basis for establishing employment

status. To the contrary, such records as exist tend to confirm the Bank's conclusion that the Applicant was hired on a temporary basis, and that he was converted to regular status in August 1971. The Tribunal might have sympathy with the proposition that someone in the Applicant's position would not readily understand the basis on which his grant was computed, but if that was the case the Applicant should have simply asked whether the Bank was giving him credit from 1959. The Applicant undermines his case when he affirms that he had been told in November 2000 that the termination grant would yield a certain amount based on regular service since 1959. This indicates a level of awareness which should have prodded him into action when the grant, upon receipt, turned out to be surprisingly low.

9. It is in principle unnecessary to examine the Bank's alternative submissions to the effect that (1) the Tribunal has competence under Article XVII of its Statute to hear a "cause of complaint which arose subsequent to January 1, 1979," and (2) the Applicant's acceptance of the mutually agreed severance package waived the entitlement which he now asserts. The Tribunal nevertheless notes that if the Applicant's grievance were founded on a mistake which occurred in 1971, e.g. a failure to record a retroactive regularization of his initial appointment, it would instantly be rejected due to the fact that the Tribunal cannot under any circumstances deal with matters that predate 1979. (See *Scott*, Decision No. 4 [1981], para. 10.) The Tribunal has rather examined the matter in the light most favorable to the Applicant, namely that his complaint relates to the computation of his termination grant. The Tribunal finally notes that waiver of the remedy that the Applicant now seeks was effected as part of the separation package on January 10, 2001.

Decision

For the above reasons, the Tribunal decides that the application is inadmissible.

/S/ Bola A. Ajibola

Bola A. Ajibola
President

/S/ Nassib G. Ziadé

Nassib G. Ziadé
Executive Secretary

At Washington, DC, December 12, 2003