



World Bank Administrative Tribunal

2017

Order No. 2017-2

**Sara González Flavell (No. 3),
Applicant**

v.

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

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

**Sara González Flavell (No. 3),
Applicant**

v.

**International Bank for Reconstruction and Development
Respondent**

1. This order is rendered by a Panel of the Tribunal, established in accordance with Article V(2) of the Tribunal's Statute, and composed of Judges Stephen M. Schwebel (President), Abdul G. Koroma, and Marielle Cohen-Branche.

2. The Application, the Applicant's third before the Tribunal, was received on 29 August 2017. The Applicant was represented by Stephen Schott of Schott Johnson, LLP. The Bank was represented by David R. Rivero, Director (Institutional Administration), Legal Vice Presidency.

3. In this third Application, the Applicant lists the following as decisions contested:
 - a. The withholding of the EBC Report of Investigation;

[and]

 - b. The refusal of the Vice President, Human Resources (HRVP) to take action to protect the Applicant's rights. (The letter to the Tribunal dated March 29, 2017 from the Bank, which included the 1st page of the EBC Executive Summary, (EBC Final Report was for *in camera* review only) and the HRVP letter which stated that the HRVP had decided that "no misconduct" was found against [the Director General of the Independent Evaluation Group (IEG)]). The Applicant is challenging this decision and is requesting the Tribunal to determine misconduct occurred and therefore the failure to protect the Applicant's rights as a staff member in accordance with Staff Rules and Principles of the Bank.

4. As a remedy for the alleged violation of her rights, the Applicant requests: a) reinstatement to her former position and all compensation due to her; b) "[a]ssistance in finding another position suited to her qualifications"; and c) "[p]rotection from the offending manager and withdrawal of the threat of redundancy." The Applicant also requests "monetary compensation for effects of the

sanctioned/sanctionable conduct on Applicant's health and career in the amount of three years' net salary."

5. A review of the Applicant's third Application clearly shows that it is devoid of all merit and ripe for summary dismissal pursuant to Rule 7(11) of the Tribunal's Rules, which provides that:

If it appears that an application is clearly irreceivable or devoid of all merit, the President may instruct the Executive Secretary to take no further action thereon until the next session of the Tribunal. The Tribunal shall then consider the application and may either adjudge that it be summarily dismissed as clearly irreceivable or devoid of all merit, or order that it should be proceeded with in the ordinary way.

6. The rights afforded to staff members who submit complaints of misconduct to the Office of Ethics and Business Conduct (EBC) are contained in Staff Rule 2.01, paragraph 5.01 and the World Bank Directive/Procedure titled "Conduct of Disciplinary Proceedings for EBC Investigations." According to Staff Rule 2.01, paragraph 5.01, a complainant who has brought allegations of misconduct against another staff member may be informed of any disciplinary measures imposed under Staff Rule 3.00 or Staff Rule 8.01 as a result of the allegation. This provision is further developed in the "Conduct of Disciplinary Proceedings for EBC Investigations" which enumerates the rights of complainants as follows:

II. Complainants

Complainants (staff members who brought allegations of misconduct against another staff member) are accorded the following rights:

[...]

2. The investigator will provide regular updates to complainants on the general status of an investigation and promptly respond to specific queries from complainants.

3. The investigator will inform a complainant of the outcome of a preliminary inquiry or investigation into allegations of misconduct s/he brought against another staff member.

4. If the allegations were substantiated, the investigator will include in the notice of outcome to the complainant what disciplinary measures were imposed, if any, as

provided in Staff Rule 2.01, “Confidentiality of Personnel Information,” paragraph 4.01. A staff member informed under this provision must not disclose the information to any other person.

7. The record shows that the Applicant was in communication with EBC investigators who provided her with the update that EBC had reviewed her complaints and that a report was sent to the HRVP. *See González Flavell*, Decision No. 553 [2017], para. 74. Even though the Applicant was subsequently not provided with information on the outcome of the investigation, this was remedied when, as part of the proceedings in her first Application, the Tribunal ordered the Bank to provide the Applicant with the first page of EBC’s report and a copy of the HRVP’s decision letter. Thus, if any of the Applicant’s rights were infringed upon (e.g., the right to know the outcome of EBC’s investigation), this was nevertheless remedied once the Tribunal ordered that she be given a copy of the HRVP’s decision letter and the first page of EBC’s report. The Applicant’s claims are therefore moot and there is no plausible legal basis for her Application to proceed.

8. Finally, the Applicant challenges the HRVP’s decision on the grounds that the HRVP’s decision letter contained a recognition of serious managerial issues yet the HRVP failed to find misconduct on the part of the IEG Director General. The Tribunal holds that a recognition by the HRVP that the IEG Director General had continuing and serious managerial issues is not indicative of substantial evidence that the Director General committed misconduct in contravention of the Principles of Staff Employment, Staff Rules, Administrative Manual, Code of Conduct, other Bank policies, or other duties of employment. The Applicant’s claims in this regard are therefore devoid of merit.

13. Accordingly, the Application is dismissed as devoid of all merit.

DECISION

The Application is summarily dismissed.

/S/ Stephen M. Schwebel

Stephen M. Schwebel

President

/S/Zakir Hafez

Zakir Hafez

Acting Executive Secretary

At Washington, D.C., 25 October 2017