

Decision No. 287

Annie Wambui Kihara,  
Applicant

v.

International Bank for Reconstruction and Development,  
Respondent

1. The World Bank Administrative Tribunal has been seized of an application, received on August 15, 2002, by Annie Wambui Kihara against the International Bank for Reconstruction and Development. The Bank has raised a jurisdictional objection to be decided by a Panel of the Tribunal, established in accordance with Article V(2) of its Statute, and composed of Francisco Orrego Vicuña (President of the Tribunal) as President, Bola A. Ajibola (a Vice President of the Tribunal) and Robert A. Gorman, Judges. The usual exchange of pleadings with respect to jurisdiction took place. The case was listed on November 5, 2002, to decide the issue of jurisdiction only.

2. The Applicant was given a Fixed-Term (later Regularized) appointment in the Bank's Country Office in Nairobi, Kenya on November 1, 1984. The Applicant's letter of appointment and, according to the Applicant, the Local Staff Handbook provided for the Applicant to receive a Termination Grant upon leaving the service of the Bank. In 1996, the Applicant was offered and accepted a Regular appointment at Headquarters in Washington, D.C., where she commenced work on May 6, 1996. The Applicant was placed on paid administrative leave during her transfer, which was recorded as a "Change in Appointment Type." Despite this, the Applicant was paid and accepted a Termination Grant and, upon her relocation to Headquarters, she commenced service with rights in the Gross Plan of the Staff Retirement Plan (SRP). The Applicant asserts that the Bank has nevertheless regarded her service as having been continuous. The Applicant appealed to the Pension Benefits Administration Committee (PBAC) on December 6, 2001, seeking recalculation of her Termination Grant and the option to repay her Termination Grant and to receive SRP credit for her Country Office service. The PBAC rejected her claim on jurisdictional grounds by letter dated April 17, 2002.

3. The issues presented in the instant case are precisely those that have been addressed by the Tribunal in *Biswas*, Decision No. 262 [2002], as well as this day in *Blair*, Decision No. 281 [2002]. The reasoning in those two judgments applies here as well, both with respect to the allegedly premature and improperly calculated Termination Grant and with respect to the failure to credit Country Office service toward the award of pension benefits under the Gross Plan of the SRP. It is therefore unnecessary to reiterate those reasons.

4. The Applicant failed to exhaust the proper remedies within the Bank in a timely manner. Although she left the Country Office and transferred to Headquarters in Washington, D.C. in 1996, she did not file her claim with the PBAC until December 6, 2001, well beyond the pertinent time limit provided in the Staff Rules. Accordingly, the Tribunal lacks jurisdiction to decide the merits of the Applicant's claims, by virtue of the exhaustion requirement set forth in Article II, paragraph 2, of the Statute of the Tribunal.

### **Decision**

For the above reasons, the Tribunal decides to dismiss the application.

/S/ Francisco Orrego Vicuña

Francisco Orrego Vicuña  
President

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

At London, England, December 14, 2002