

Decision No. 251

Michael J. Sharpston,  
Applicant

v.

International Bank for Reconstruction and Development,  
Respondent

1. The World Bank Administrative Tribunal has been seized of an application, received on April 9, 2001, by Michael J. Sharpston 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, composed of Robert A. Gorman (President of the Tribunal) as President, A. Kamal Abul-Magd and Jan Paulsson, Judges. In light of the Bank's jurisdictional demurrer, pleadings were limited to this objection. The case was listed on June 27, 2001.

2. The Applicant considers that the Bank has failed to provide the "level of care to be exercised ... towards its staff members so as to preserve their mental health and thus their rights and dignity as human beings." He seeks the rescission of a decision denying his request for a review of the conduct of a psychiatrist employed by the Bank; substantial monetary compensation; and a "full independent review, assisted by an outside expert, of practices in the Respondent's health services department."

3. The Bank considers that the Tribunal has no jurisdiction due to the Applicant's failure to exhaust internal remedies in a timely fashion.

4. This judgment deals solely with the issue of jurisdiction.

*Factual background*

5. The Applicant, an economist, was a staff member of the Bank from 1972 to 1994 when his entire unit was made redundant and disbanded. He was placed on Special Leave and then entered retirement in October 1996.

6. The Applicant states that he experienced work-related "stress and ... agitation" in 1979-80. Relying on the promised confidentiality of the Bank's "Anonymous Psychiatric Program," the Applicant consulted a staff psychiatrist, Dr. X, and spoke freely to him about his distress. Shortly thereafter, the Applicant was instructed by his superiors to report to the Bank's psychiatrist, whom he found to be the same Dr. X. He perceived Dr. X to behave aggressively toward him. A few days later, he was "led to sign a consent form to check himself" into the Psychiatric Unit of Sibley Hospital, under the "indirect supervision and ultimate authority" of the same Dr. X. The Applicant spent three months in the Unit, until his release on July 17, 1980. During this time, he says, Dr. X, whom the Applicant felt had betrayed his trust, advised him to seek employment outside the Bank as he was no longer likely to be able to handle his previous assignments. Dr. X's attitude aggravated the Applicant's condition.

7. Upon his release, the Applicant was placed on extended sick leave. He went to Europe, where he remained "extremely depressed and suspicious." He had suicidal impulses. He was diagnosed in Switzerland as suffering from a mixed manic-depressive condition, and then in England as suffering from paranoid schizophrenia. Concern for his safety caused him, under Section 25 of the English Mental Health Act, to be admitted as an in-patient in hospitals in that country for around six months until his release on May 25, 1982.

8. The Applicant returned to Washington in August 1982 and resumed his career at the Bank. He was, however, “obliged” once again to see Dr. X for his clearance for fitness for duty, and over the years “continued to feel pressure from Dr. [X] as a looming presence in the background.” He considers that although he was promoted once, in 1987, he was unable to live up to his earlier professional promise. He believes that “although I was normally not at all of a paranoid disposition,” his betrayal by Dr. X led to “severe paranoid delusions,” with the effect that as much as 13 years after his stay in Sibley Hospital he was unable to trust other therapists even though he wished to do so; this “exacerbated and prolonged” his illness.

*Procedural history of the grievance*

9. On October 15, 1996 – only days before his retirement – the Applicant, referring to the events affecting him in 1980-82, requested the Bank’s Vice President, Human Resources (VPHR), to acknowledge “the problem which arose in my case,” and to pay compensation for medical costs and “pain and suffering.” His letter was forwarded to the Director, Health Services Department (DHS), who responded as follows on November 7, 1996:

Let me begin by saying that I am sorry to learn of your ill health over the years and that I trust you are now in better health. I see from your letter that the events you call attention to occurred quite some time ago, beginning in 1979. From my review of the career file, it appears that the Bank has been particularly understanding and helpful to you in your time of illness. I note, for example, that despite your illnesses you have completed a twenty-two year career with the Bank, and that extended absences were accommodated in an effort to enable you to regain full health.

I very much regret that you now find objectionable the care that Dr. [X] rendered during some of your illnesses. Dr. [X] is a well-known and respected psychiatrist. I have no reason to doubt that the care he rendered was of the highest caliber. *In the circumstances, I regret to advise you that I am unable to accede to your request for financial recognition of the matters you have alleged in your letter.* I would like to conclude by thanking you for the many years of service you have given to the Bank and wish you every success. [Emphasis added.]

10. On December 2, 1996, the Applicant wrote a detailed letter to the DHS, thanking him for his letter “and its kind tone” but calling his attention to a number of matters “I should like to discuss with you.” The letter did not contain any request for concrete action or remedy; it concluded with this rather amorphous paragraph:

Perhaps, then, we can now focus on the Bank’s promise of confidentiality in the counselling service it offered, my reliance on that promise, and the unfortunate effects deriving from the failure to maintain that promise in a meaningful sense.

11. The DHS responded as follows on January 21, 1997:

I very much regret that you continue to express dissatisfaction with the treatment you received from the Bank in the late 1970’s and early 1980’s. From your letter, it appears we both are in agreement that the Bank’s actions had as their objective to help you at a time of illness. The record available to me, and the facts you yourself describe, suggests a sympathetic, caring institution going to great lengths to be of help. I am not able to make any additional assessment of your case and in particular Dr. [X’s] treatment as I had no personal involvement with it and therefore have no first hand knowledge beyond what I have been able to discover from reviewing the career file. As I noted in my letter of November 7, 1996, Dr. [X] is a well-known and respected psychiatrist who I have no reason to believe would have acted in other than a professional and appropriate manner in delivering health care to you. In the circumstances, *I see no basis for concluding that there was any wrongdoing by the Bank or its officials.*

Again, thank you for calling this matter to my attention, and I wish you the very best. [Emphasis added.]

12. Shortly thereafter, the Applicant and the DHS spoke on the telephone, leading to a letter dated January 26, 1997, in which the Applicant once again requested “an acknowledgement by the Bank of the errors which in my case led to such very unfortunate results” and to financial compensation, e.g., for “substantial psychotherapy bills.”

13. On March 10, 1997, the DHS wrote to the Applicant as follows:

It was good talking to you at Harvard and I have followed up as promised.

I have consulted with my legal colleagues on your various letters. Unfortunately, the Bank's ability to assess the issues you raise is substantially restricted because of the length of time which has elapsed since the events you describe concerning your treatment by Dr. [X]. The staff members involved have now all departed the Bank and there is no documentation of this case other than that available in the career file. It is extremely difficult, given the passage of time, to come to any definitive understanding of events which may have occurred in the late 1970s and early 1980s.

*It is therefore with regret that I must tell you that we are not in a position to pursue the points you raise further.*

Please feel free to call me. [Emphasis added.]

14. The Applicant next approached the Ombudsman in February 1998. The Ombudsman contacted the DHS to discuss the matter. The DHS informed the Ombudsman that he (the DHS) had no evidence other than the Applicant's allegations, since the Bank's own relevant files had been lost or destroyed in a reorganization. The Ombudsman subsequently informed the Applicant that the DHS would be willing to re-examine the matter if the Applicant could provide corroborating evidence.

15. Nine months later, the Applicant wrote a letter dated November 5, 1998, to the DHS stating that he had worked hard to provide "more corroboration" of his version of events, and that he was now presenting a report to that effect as an attachment to the letter. He reiterated his desire to have the Bank acknowledge "that what happened in my case should not have occurred" and provide financial redress, e.g., on account of "costs of therapy" and "[l]ost years of enjoyment of life."

16. Attached to that letter was an eight-page, single-spaced document written (in the third person) by the Applicant and entitled "The Case Being Made in Regard to Michael Sharpston's Illness."

17. The DHS responded as follows in a letter dated January 20, 1999:

I have reviewed carefully your letter of November 5, 1998 and its accompanying recitation entitled "*The Case Being Made in Regard to Michael Sharpston's Illness.*" First, for myself and on behalf of the Bank, let me say how truly sympathetic I am to your having suffered from mental illness. [Emphasis in the original.]

As for your request for compensation, however, it is my opinion and that of the Health Services Department, that the Bank acted reasonably and responsibly in your case. I believe that the Bank's actions neither caused nor exacerbated your mental illness, and therefore, the Bank denies any and all responsibility for the deterioration in your mental health. Accordingly, *your request for compensation is being denied.* [Emphasis added.]

I wish that the review of this matter could have proven more favorable to your ordeal.

18. The Applicant then wrote to the VPHR on February 16, 1999, stating that further correspondence with the DHS "seems unlikely to achieve a useful result" and asking for a meeting to move toward an "equitable resolution" including the Bank's "reasoned and agreed acknowledgement of responsibility ... and ... appropriate financial redress."

19. The VPHR responded as follows, on April 19, 1999:

Thank you for your letter of February 16, 1999, together with the accompanying documentation, which I have reviewed carefully. I was very sorry indeed to learn of your illness in late 1979 and the distress you report you have suffered since then. I was also disturbed by the view you expressed that the World

Bank directly contributed to your misfortunes.

As an institution, the World Bank does all that it possibly can to aid persons in situations similar to yours. The Bank's intention twenty years ago in making available to Bank staff the services of Dr. [X], then head of Sibley Hospital's Psychiatric Unit, arguably one of the finest medical facilities in the Washington D.C. area, was in keeping with this objective.

Having reviewed your official personnel file and your Bank benefits file, I believe that the Bank acted in every reasonable way possible to help you through your difficulties. Indeed, our records indicate that you were granted over three years of additional sick leave at full pay after your earned sick leave entitlement had run out and, when you were fit to return to duty, efforts were made to ensure that you were not subjected to undue stress in the workplace.

Thus, from my review, *I must conclude that the Bank acted reasonably and responsibly in your case.*

But, if you believe that there was any unprofessional conduct on the part of Dr. [X] regarding your treatment, then the responsibility would rest with Dr. [X], and perhaps Sibley Hospital, but not with the Bank. Accordingly, *I regret I cannot entertain any exploration for your further compensation.* [Emphasis added.]

20. The Applicant wrote back to the VPHR on May 3, 1999, asserting that the latter had not addressed "my central point, namely the Bank's responsibility for its own actions in its own name," and concluding, after restating a number of details about his grievance, that: "If I do not hear from you on this point within a month, I shall be obliged to assume that Bank Management has refused my request to deal with the substantive point at issue."

21. The VPHR responded on May 13, 1999, as follows:

This is in response to your letter of May 3, 1999 in which you restate your concerns about the system which was in use by the Bank twenty years ago to assist staff with psychological health issues.

I can only repeat that, after reviewing your case, my findings indicate that the Bank acted reasonably and responsibly in its efforts to help you and can bear no responsibility for the course or duration of your illness.

22. On June 23, 1999, the Applicant made a complaint to the Appeals Committee in which he contested the Bank's refusal to inquire into the events in 1980 and their aftermath, and its refusal to compensate him. The Bank submitted a challenge to jurisdiction, arguing that the Appeal was untimely under the relevant Staff Rules irrespective of whether the administrative decision was considered to be the DHS's letter of November 7, 1996 or the DHS's letter of January 20, 1999. In a Decision on the Question of Jurisdiction, the Appeals Committee concluded that the DHS's January 20, 1999 letter was the administrative decision, that the Appeal was one month late, but that it was not "inclined" to deny jurisdiction on the basis of a one-month delay. In accepting jurisdiction, the Appeals Committee expressed the opinion that the Bank had never responded to the Applicant's "central claim," that being whether the Bank had breached any obligation to the Applicant concerning Dr. X's multiple, conflicting roles.

23. After hearing considerable expert evidence on the merits, the Appeals Committee accepted that the Applicant had a legitimate grievance. In particular, the Appeals Committee stated that it was troubled by

the potential for harm to a patient who has seen a psychiatrist first as a private, voluntary patient and is then compelled to undergo evaluation for a return to duty by the same psychiatrist at the behest of his or her employer.

24. The Committee recommended compensation (\$50,000) and costs (\$10,571.57). It did not explicitly endorse the Applicant's request for an investigation into the facts of his case, but did recommend a review of the Bank's administration of mental health services. In reaction to these recommendations, the Bank proposed to the

Applicant that his grievance be definitively settled on the basis that:

(i) the Committee's recommendations with regard to mental health policies would be forwarded to the new Director of the Joint Bank/Fund Health Services Department "for review and action";

(ii) the Bank acknowledged that the Applicant had "brought to the attention of the Bank a significant issue of considerable consequence to its staff members"; and

(iii) the Bank would pay the Applicant \$60,571.57 in compensation and legal fees.

This proposal was not accepted by the Applicant, who therefore seized the Administrative Tribunal, seeking the relief mentioned in paragraph 2.

*The standards to be applied*

25. Under Article II(2) of its Statute, the Administrative Tribunal cannot admit applications "except under exceptional circumstances as decided by the Tribunal, unless ... the applicant has exhausted all other remedies available within the Bank Group."

26. To the extent such remedies are subject to time requirements, failure to seek them in a timely fashion is equivalent to failure to use them, and thus a jurisdictionally fatal failure of exhaustion.

27. The Applicant argues that the Appeals Committee's acceptance of jurisdiction; the Bank's participation before the Committee in the discussion of the merits; and the Applicant's timely application to the Administrative Tribunal precludes the objection to jurisdiction.

28. There is plainly no merit in this contention. It is beyond doubt that the Tribunal has the authority, and indeed the duty, to review jurisdictional findings of the Appeals Committee. As Staff Rule 9.03, paragraph 4.03, provides:

The Appeals Committee itself shall decide an objection to its competence, subject to review by the Administrative Tribunal.

29. The "review" in question relates perforce to the jurisdiction of the Appeals Committee. If the Appeals Committee incorrectly accepts an untimely appeal, the Administrative Tribunal may and must conclude that there was a failure of timely exhaustion of internal remedies.

30. At the relevant times from 1996 to 1999, Staff Rule 9.01, paragraph 2.02, provided as follows:

If an administrative decision was made by: (i) an individual whose direct manager is the Vice President, Human Resources; or (ii) the most senior person in a unit that reports directly to a Managing Director or the President, the staff member may request the person who made the administrative decision to conduct the administrative review or may proceed directly to the Appeals Committee without first seeking administrative review. ...

31. Staff Rule 9.03, paragraph 5.01, provided:

After the administrative review has been completed, a staff member who wishes to appeal the decision to the Appeals Committee must submit the appeal ... within 30 calendar days following receipt by the staff member of the written decision .... If no administrative review is required, the staff member must submit the appeal within 90 calendar days of receiving the written decision. ...

32. By reference to these two texts, the question raised by the present case is whether (i) if there had been an administrative review, it was brought to the Appeals Committee within 30 calendar days thereof, or (ii) if there was no administrative review, the Appeals Committee was seized within 90 days of the Applicant's receiving a relevant written decision. For his case to survive the jurisdictional objection, the Applicant must prevail on one or the other of these alternatives.

*Assessment of the particular circumstances of this application*

33. The immediately salient thing about the Applicant's grievance is that it relates to events that took place so long ago. Ideally, the Applicant should have articulated his complaint in 1980, when he found that the same psychiatrist he had consulted personally was now interviewing him at the behest of his managers. The Tribunal can understand and accept the Applicant's thesis that he was in no mental condition to protest at that time. But the record shows that the Applicant was able to resume his career in 1982 on the basis that he was fit for duty. The record also shows that the same psychiatrist had a role in pronouncing him fit. If the Applicant at the time felt aggrieved to see the same person in this role, it is entirely unclear why he did not raise the matter then. It now falls to the Tribunal to examine whether the Applicant initiated and pursued his grievance, starting on the eve of his retirement in October 1996, in such a manner as to entitle him to access to the Tribunal.

34. *Prima facie*, the decision that gave rise to the Applicant's grievance was announced by the DHS's letter of November 7, 1996. That letter was phrased in unmistakable terms: "I regret to advise you that I am unable to accede to your request for financial recognition of the matters you have alleged in your letter."

35. The Applicant, however, has sought to identify a letter written by the DHS more than two years later, on January 20, 1999, as the "decision giving rise to the application."

36. The Administrative Tribunal has in several cases made clear that applicants may not extend deadlines for seeking internal remedies by the expedient of requesting reconsideration of the initial decision. Thus, the Tribunal wrote in *Agerschou* (Decision No. 114 [1992], para. 42):

If the possibility were given to the members of the staff, after having exhausted the internal remedies and having received final notice that their request is not granted, to ask time and again for a reconsideration of their cases and to argue that the subsequent confirmation by the Respondent of its previous decisions reopens the 90-day time limit for applying to the Tribunal, a mockery would be made of the relevant prescriptions of the Statute and the Rules. These prescriptions are far too important for a smooth functioning of both the Bank and the Tribunal for the Tribunal to be able to concur in such a destructive view.

37. Unilateral reiterations of a grievance, addressed to the author of the initial decision, thus cannot have the effect of extending the time limits within which a complainant is required to seek redress against that decision.

38. This raises the issue of the consequences of a manager's apparent *acceptance* to reconsider a matter, and whether under that hypothesis his or her ultimate confirmation of the initial decision may, in and of itself, be deemed a reviewable or appealable decision.

39. *Tucker* (Decision No. 238 [2001]) concerned precisely the case of an applicant who argued that she had acted in a timely fashion by counting her deadline from the date of a denial by the Pension Benefits Administration Committee (PBAC) of her request for reconsideration of her original disability application. She insisted that her application to the Tribunal was timely because it had been filed within 90 days of the PBAC's decision to deny reconsideration. Rejecting this argument, the Tribunal held, at paragraph 27, as follows:

One aspect of the *Agerschou* case that might warrant its being distinguished here is that the PBAC's refusal to reconsider in that case was essentially peremptory, while in the instant case the PBAC actually reviewed its earlier decision and the additional medical assessments from Dr. Rothenberg put forward by the Applicant. The PBAC thus could be viewed as having indeed made a new substantive decision that should start a new ninety-day period for seeking review by the Tribunal. Rejecting appeals of peremptory PBAC decisions as untimely, while entertaining appeals from considered decisions, might of course encourage the PBAC, as well as other decision-makers within the Bank when they find themselves in a similar position, to treat reconsideration requests with less than an open mind. Such an outcome would hardly benefit the staff or the cause of fairness in personnel relations. Moreover, the distinction will in many cases be difficult to draw.

40. It is in light of this precedent that the letter of January 20, 1999, falls to be examined. Its context was that

the Applicant had prompted the Ombudsman to contact the DHS in February 1998, and that the latter had indicated orally, through the Ombudsman, that he (the DHS) would be willing to re-examine the matter if the Applicant could supply evidence corroborating his account. Nine months later, on November 5, 1998, the Applicant wrote to the DHS to say that he had “worked hard to satisfy your request, and now attach the result.” The attachment was the report prepared by the Applicant entitled “The Case Being Made in Regard to Michael Sharpston’s Illness” (see para. 16). The wording of the DHS’s response – the critical letter of January 20, 1999 – appears in context to have been quite deliberate in suggesting that the Applicant had failed to provide the *corroboration* which would lead to reconsideration:

I have reviewed carefully your letter of November 5, 1998 and its accompanying *recitation* .... [Emphasis added.]

41. In context, this choice of words was not quite fair. The Bank has not questioned, as a matter of fact, the proposition that the DHS had agreed to reconsider the matter if the Applicant provided corroboration. It cannot fairly be said that his Report failed to do so, because it contained a seven-paragraph section specifically entitled “corroboration” which referred to various documents and potential witnesses (friends and health providers).

42. Of course the DHS would be entitled to take the view that this purported “corroboration” was implausible or irrelevant, but he could not *disregard* it. Even though the Applicant’s purported corroboration came rather late in the day, the DHS was bound to give it consideration because he had affirmed to the Applicant that he would do so. In that sense, the January 20, 1999, letter must inevitably be considered as a separate decision upon reconsideration.

43. But this conclusion does not suffice to replace November 7, 1996, with January 20, 1999, as the starting point for the Applicant’s search for redress. As seen in *Tucker*, it may be invidious, and of doubtful benefit to staff members generally, to attach prejudicial legal significance to the willingness of managers to reconsider their decisions.

44. In *Tucker*, the Tribunal considered that the claim was time-barred, on the grounds that even if one accepted that the challenge was directed against the refusal to reconsider, that refusal was “well within [the PBAC’s] discretion,” inasmuch as the complainant’s request for reconsideration was not based on “new relevant information.”

45. The question then arises whether the materials provided by the present Applicant on November 5, 1998, could reasonably have been considered by the DHS to have been immaterial with respect to the considerations that had caused him to reject the grievance in 1996, with the result that he was acting within the permissible limits of his discretion when he refused to reopen that decision.

46. The Tribunal believes that the DHS, having now received the product of an earnest effort by the Applicant to provide a number of details – and concrete suggestions for further investigation – which were not before him in 1996, was bound to reach a decision which could not be a mere reiteration of his initial rejection.

47. The Tribunal thus finds that the January 20, 1999, letter constituted a decision which, under the Rules then in force (see paras. 30-31), was susceptible to administrative review, or to challenge before the Appeals Committee.

48. Since the DHS reported directly to the VPHR, Staff Rule 9.01, paragraph 2.02, gave the Applicant the choice of either:

- requesting administrative review by the DHS himself, subject to further challenge before the Appeals Committee within 30 days of the decision on administrative review; or
- proceeding directly to the Appeals Committee within 90 days of the decision.

49. According to the Applicant, he sought the route of administrative review. But even according to his own

version of events he did not follow the requirement of Staff Rule 9.01, paragraph 2.02. Instead, he requested the VPHR to conduct the review. Moreover, the alleged request, namely the letter dated February 16, 1999, does not explicitly request the VPHR to carry out an administrative review. The letter begins by saying that “I have decided that the time has come to bring this matter to your personal attention,” and goes on to articulate the same grievance he had been putting to the DHS. While he expressed disagreement with the latter’s conclusion, he did not explicitly ask for it to be overturned as an abuse of discretion, or indeed for any other reason. It would take a sympathetic reading to construe the letter as a request for administrative review. And such requests should not ordinarily have to be *construed*. It does not seem too much to ask of a highly educated staff member that he write words to the effect: “I want you to change X’s decision.” The Applicant’s contention that his letter of February 16, 1999, should be liberally understood as a sufficient manifestation of a desire for administrative review is undercut by the fact that the VPHR, as stated, was not the appropriate recipient of a request for administrative review.

50. In a word, the proposition that the Applicant effectively sought administrative review of the letter of January 20, 1999, is subject to considerable doubt.

51. If the proper conclusion were that the Applicant had not sought administrative review, he was bound to seize the Appeals Committee within 90 calendar days of the decision he considers to be relevant. His deadline, on this hypothesis, was therefore April 20, 1999. He did not do so until June 23, 1999. By then, the Appeals Committee had no jurisdiction to hear his case; and neither would the Administrative Tribunal today.

52. The Administrative Tribunal has often emphasized that ignorance of the law is no excuse. Here especially, the persistence of the Applicant’s correspondence excludes the hypothesis that he was taking the matter lightly. Indeed, as far back as August 30, 1997 he had written to the DHS that “it is important to me *for procedural reasons* to establish that we have gone as far as we can go between the two of us” (emphasis added). The Applicant was clearly sensitive to the possibility of procedural requirements, and the responsibility was reasonably his to meet the 90-day deadline for filing with the Appeals Committee.

53. Nevertheless, the Tribunal has carried its analysis one step further and finds that it is not necessary to rest its decision on the proper interpretation of the Applicant’s February 16, 1999, letter. For even if one were to adopt the construction most favorable to the Applicant, and thus to accept the VPHR’s letter of April 19, 1999, as a decision upon administrative review, the present application still fails to establish the Administrative Tribunal’s jurisdiction; on this hypothesis (which was the one adopted by the Appeals Committee), the Applicant had to file his Statement of Appeal by May 19, 1999, and not on June 23 as he did.

54. The Appeals Committee stated that it was not “inclined” to refuse jurisdiction “on the basis of what was, in the end, a one-month delay ....” The Administrative Tribunal does not accept that this is a matter of the decision-making body’s “inclination,” but insists that it is a matter of statutory compliance. Nor is the Administrative Tribunal persuaded by the apparent reason for the Appeals Committee’s “inclination” in this respect, namely that the DHS’s and the VPHR’s letters never responded to the Applicant’s “central claim,” i.e., the Bank’s responsibility for having allowed Dr. X to play conflicting roles. One may argue about whether the DHS and the VPHR addressed specific grievances, but that is not the point; what is beyond cavil is that both of them rejected the Applicant’s complaints *in their entirety*.

55. Nor would the outcome be different if the Applicant had sought to characterize the VPHR’s letter of April 19, 1999, as the decision giving rise to his grievance, and then had argued that the purpose of his reverting to the VPHR on May 3, 1999 (see para. 20), was to obtain the latter’s administrative review of his own decision. For on that theory, the unfavorable decision upon such review would have been the VPHR’s letter of May 13, 1999, and the Applicant would have been required to seize the Appeals Committee within 30 days thereof, i.e., by June 14, 1999; and of course he did not.

56. In his pleadings, the Applicant has also suggested that his case raises issues of fundamental human rights with respect to which it is appropriate to address the merits “notwithstanding possible jurisdictional challenges.” Referring to the need for an international organization to adhere to international standards, the Applicant has

thus invoked a number of texts and precedents arising under the American Convention on Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights. To the extent that these texts recognize the entitlement to be protected from inhuman or degrading treatment, they are entirely uncontroversial. To the extent that they refer to specific violations, such as the right of access to a court before confinement, they are not pertinent here; the Applicant's pleaded cause of action is not that he was confined against his will, but entirely focuses on the issue of the multiple roles of Dr. X. A request for a review of the World Bank's administration of its health services cannot remotely be equated with an action for inhuman or degrading treatment.

57. The Administrative Tribunal finds it more plausible, within its statutory framework, to view this final, alternative argument as relating to the Tribunal's right to accept applications which are jurisdictionally defective if the Tribunal is persuaded that "exceptional circumstances" are extant (see para. 25). The Tribunal is not so persuaded, given that the Applicant in his extensive correspondence with the Bank took the initiative to provoke a number of conceivable triggering events, and then failed to ensure his access to the Administrative Tribunal by not pursuing his remedies in a timely fashion.

#### Decision

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

/S/ Robert A. Gorman

Robert A. Gorman  
President

/S/ Nassib G. Ziadé

Nassib G. Ziadé  
Executive Secretary

At London, England, July 23, 2001