

Decision No. 135

Arlette Snyder,  
Applicant

v.

International Bank for Reconstruction and Development,  
Respondent

1. The World Bank Administrative Tribunal, composed of A.K. Abul-Magd, President, E. Lauterpacht and R.A. Gorman, Vice Presidents, and F.K. Apaloo, F. Orrego Vicuña, Tun M. Suffian and P. Weil, Judges, has been seized of an application, received October 27, 1992, by Arlette Snyder, against the International Bank for Reconstruction and Development. There was the usual exchange of pleadings. The case was listed on May 27, 1993.

The relevant facts:

2. The Applicant, a citizen of the United States of America, joined the Bank in January 1982 and has been serving in the Environment Department (ED) since its inception in September 1987.

3. In September 1988 the Applicant, a Staff Assistant level 15 at that time, suggested to her supervisor, the Director, ED, the creation of a newsletter for the ED. In January 1989 the first issue of the Environmental Bulletin (EB) was published and since then the Applicant's name has appeared as the "Editor" on the cover of every edition of this quarterly newsletter.

4. Early in 1991, the issue of the grading of the position occupied by the Applicant was raised and the Applicant and the Director, ED, each sent for approval to the next-in-line manager, the Vice President, Sector Policy and Research (PRSVF), a job description of the position occupied by the Applicant as each understood it.

5. In a memorandum dated February 20, 1991 to the Director, ED, the Vice President, PRSVF, informed him that he was submitting both job descriptions to the Job Evaluation Unit (JEU) for technical assistance and advice.

6. On April 23, 1991 the JEU decided that the Applicant's position should be titled "Editorial Assistant" and graded at level 16/17. Therefore, the Applicant was promoted effective May 1, 1991 to level 16.

7. In a memorandum dated July 24, 1991 to the JEU, the Applicant requested administrative review of the grading decision on the grounds that the JEU based its decision mainly on the job description prepared by the Director, ED, which contained several inaccuracies. In particular, the Applicant stated that

- (i) in September 1988 the Director, ED, had appointed her Editor of the Environmental Bulletin and that since then she had assumed full editorial responsibilities for this newsletter;
- (ii) she had never reported to an editorial team because such team had never existed in the ED; and
- (iii) an Editorial Assistant is supervised by an Editor, however the Applicant was herself the Editor.

8. In a memorandum dated October 31, 1991 to the Applicant, the ED's Personnel Team, (PREPE), notified her that the JEU had reconfirmed the original grade 16/17 allocated to her position.

9. On December 18, 1991 the Applicant filed an appeal with the Job Grading Appeals Board, (JGAB), which, on July 22, 1992, recommended that the Applicant's position be graded at level 17.

10. By letter dated July 28, 1992, the Acting vice President, Personnel and Administration, notified the Applicant that he had accepted the JGAB's recommendation.

The Applicant's main contentions:

11. Since September 1988 the Applicant has been the Editor of the EB and she has been making editorial decisions and assuming editorial responsibilities without supervision.

12. The Respondent's decision not to grant the Applicant grade 21 which is the grade of an Editor was based on inaccurate information and was arbitrary and capricious.

13. The Respondent in making its grading decision relied solely on the Applicant's job description written in 1991 by her former supervisor and former Director, ED, in which the latter had mentioned that the Applicant allegedly had reported to an "Editorial Team", whereas no such team had ever existed in the ED.

14. Similarly, the Respondent relied heavily on job descriptions of Editorial Assistants elsewhere in the Bank who work under the supervision of an Editor. This was not the case with the Applicant's position. The Applicant's responsibilities could only be matched with those of an Information Assistant grade 19/20 in the External Affairs Department.

15. The Respondent ignored entirely the statements made by the Senior Advisor who had also acted as Director during the tenure of the former and current Director, ED, and who had stated that the Applicant initiated, created, and became solely responsible for the edition and production of the EB, and that she performed admirably as an Editor. The Respondent also ignored entirely the statements made by the Applicant's current supervisor, the Director, ED, who stated that the Applicant was the Editor of the EB.

16. For two consecutive years the Applicant's supervisor failed to conduct annual performance reviews of the Applicant, and as a result of this omission it has been difficult for the Applicant to demonstrate how dramatically her job had changed after she had become the Editor of the EB.

17. The Applicant requested the following relief:

- (i) damages in the form of a retroactive adjustment with respect to the grading and salary decision taken by Respondent in 1989, with interest;
- (ii) promotion to the grade of Editor level 21 retroactive to 1989; and
- (iii) costs and attorneys' fees.

The Respondent's main contentions:

18. The decision to grade the Applicant's position at level 17 was based on the responsibilities assigned to the position by the Applicant's manager, the Director, ED, and upon a correct application of the Bank's grading methodology.

19. Although differences of view existed between the Applicant and her supervisor as to the content of the Applicant's job description, in the end those differences proved not to be material, because even a greater number of "Haypoints" does not necessarily result in a higher grade.

20. The allocated grade was also based on the job description submitted by the Applicant as well as on the findings of the Job Audit performed by the JEU in March 1991.

21. From the Job Audit it was demonstrated that the Applicant (i) did not write original feature stories; (ii) was not responsible for the final product of the EB; (iii) contributed to only one publication, which appeared two to

four times a year; and (iv) devoted only part of her time to the production of the EB.

22. In April 1991 the Applicant's responsibilities fell short of the standard for a level 21 Editor's position in the Bank. If her job description had changed since 1991 the Applicant's current managers should have sought to have her position re-evaluated.

23. The Applicant cannot rely on the opinion of her colleagues to support her claim for a higher grade, because their opinions are largely anecdotal, based more on superficial perceptions than on sound analysis and not based on the Bank's grading methodology.

24. The Applicant should not be awarded costs, since there are no circumstances in this case which would warrant the award of costs. Moreover, the Applicant has failed to submit an itemized statement of costs.

#### Considerations:

25. The main contention of the Applicant is that the Respondent failed to meet its obligation under the Bank's rules by evaluating the Applicant's position as one of Editorial Assistant at grade 17 when it should have evaluated said position as that of an Editor at grade 20 or 21.

26. The Applicant does not challenge the mechanism of job evaluation prescribed by Staff Rule 6.05 endorsing the Hay Associates Methodology which measures job content according to three main factors, namely know-how, problem solving and accountability. What she challenges is the Respondent's application of that methodology to the particular case of the Applicant. She maintains that the Respondent had almost exclusively relied on the job description of one manager and had refused to consider overwhelming evidence in favor of promoting the Applicant, including job descriptions from other Bank Departments.

27. The Respondent, for its part, maintains that the grading decision of April 23, 1991 was based on several descriptions of the Applicant's job, including one prepared by the Applicant herself and another prepared by her manager. The decision was also based on documentation submitted by the Sector Policy, Research, and External Affairs Personnel Team as well as interviews conducted by the Job Evaluation Unit with the Applicant, her manager, and the Senior Adviser Economist. The Respondent, moreover, maintains that the Applicant's position was also reviewed against similar positions elsewhere in the Bank.

28. Before examining the evidence advanced by both parties as to the proper evaluation of the Applicant's position, the Tribunal wishes to reiterate what it has previously decided as to the scope of its review of the Bank's decisions arising from the Job Grading Program. In Apkarian, Decision No. 58 [1988], paragraph 39, the Tribunal declared:

Decisions made by the Bank regarding criteria for evaluating staff positions, the assignment of various tasks to particular positions, and the ultimate determination of grade levels for such positions, are properly regarded as within the discretion of the Bank. The Tribunal does, however, have the power and responsibility to determine whether the Respondent's decision "constitutes an abuse of discretion, being arbitrary, discriminatory, improperly motivated or carried out in violation of fair and reasonable procedure." Saberi, Decision No. 5 [1982] para. 24.

29. In applying the above principles the Tribunal notes that the Applicant attacks the Respondent's decision of April 23, 1991 on one single ground, namely, that it is unjust and discriminates against the Applicant, who is not being compensated on an equal basis with other staff members who perform the same or fewer tasks.

30. In examining the above contention, the Tribunal will have to identify the particular descriptions of the two positions of an "Editorial Assistant" and an "Editor", and to compare each of them to the job description of the Applicant's position at the time of the grading of that position, in order to determine whether such description matches the description of an Editorial Assistant or that of an Editor in other departments of the Bank.

31. From a comparison of the job description of an Editor's position with that of an Editorial Assistant, the Tribunal observes that the core functions of both jobs are almost identical. There is no clear or sharp line of demarcation separating the two positions. It is rather the degree of know-how, problem solving and accountability by reference to which, in the final analysis, the distinction is made between the two jobs, one of which is graded at 21, while the other is graded at 16 or 17.

32. The Applicant contends that she exercised greater independence and shown a larger degree of ability than is usually required from an Editorial Assistant. The Tribunal notes, however, that a comparison of the Applicant's position, even according to her own description of her responsibilities, to those of Editor in other departments of the Bank shows clearly that the responsibilities of an Editor comprise a lot more both as to the volume and the nature of the work. For example, the description for a level 21 Editor's position titled "Internal Communications Officer" states that the incumbent "writes most lead articles related to the Bank's external policies" and is "the Unit's economic and financial writer". That position, moreover, is responsible for work on a monthly magazine and a weekly newsletter. Another example is the level 21 Editor's position in the Editorial and Production Division of the Publications Department. The occupant of that position is "responsible for editing and overseeing production of 4 to 5 books a year as well as 10 to 12 other publications....and may execute or oversee design and production of 25 to 30 other documents."

33. In comparison with the above descriptions of Editors' responsibilities, the Applicant was responsible for the editing of only one single publication which is produced four times a year. Moreover, the "editing" responsibilities the Applicant performed took only a small part of her work time in the department, the rest of which was spent on secretarial and other tasks unrelated to editing. Therefore, both in nature and volume, the responsibilities of the position of the Applicant could reasonably be found to fall short of those of an Editor in other departments of the Respondent.

34. The Tribunal also notes that the proper date for evaluating the Applicant's position is the date when such evaluation took place, namely 1991. Any possible subsequent changes in the various elements of said position may not be invoked as a basis for questioning the validity of the grading decision. Such subsequent changes may validly be taken into account by the staff member's supervisors and may lead to a reevaluation of the relevant position under the provisions of Staff Rule 6.05.

35. The only element supportive of the Applicant's claim for a higher grade is the fact that in most positions classified as Editorial Assistant, the occupant of the position is expected to perform his or her duties and assignments "under the direct supervision of the Managing Editor", whereas in the case of the Applicant there was no Managing Editor in the Department.

36. The Respondent for its part, however, has relied on the fact that according to the Department Director's description, the Applicant was supposed to submit the work she produced to the Director, a contention supported by the notes taken by the Job Evaluation Unit summarizing the interview with the Applicant's Director on March 19, 1991 and on the fact that the "editing functions she performed were related to a single publication, namely the Environment Bulletin."

37. Although the Applicant may have a view different from that of the Respondent as to the proper weight that should be given to each of these considerations, that view of the Applicant was submitted to the Job Grading Appeals Board which found that the proper description of the Applicant's position matched that of an Editorial Assistant and not that of an Editor. The Tribunal cannot substitute its own judgment for that of the Respondent in a matter lying within the discretion of the latter.

38. As to the procedure followed by the Respondent in reaching the decision of April 23, 1991, the record shows that the procedural requirements of Staff Rule 6.05 were properly applied. The Applicant's own description of her position was taken into account along with that of her supervisor. She and other staff members occupying similar positions were interviewed. She was given ample opportunity to present her case and to submit whatever documents she deemed supportive of her case, both before the Job Evaluation Unit and the Job Grading Appeals Board.

39. In light of the considerations set out above, the Tribunal does not find that the action of the Bank can be regarded as arbitrary, discriminatory, improperly motivated or carried out in violation of a fair and reasonable procedure. There has, therefore, been no abuse of discretion.

Decision:

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

A. K. Abul-Magd

/S/ A. K. Abul-Magd  
President

C. F. Amerasinghe

/S/ C.F. Amerasinghe  
Executive Secretary

At Washington, D.C., December 10, 1993