

Decision No. 169

Girma Teferra,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

1. The World Bank Administrative Tribunal has been seized of an application, received on July 29, 1996, by Girma Teferra 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 R.A. Gorman (a Vice President of the Tribunal) as President, P. Weil and Thio Su Mien, Judges. The usual exchange of pleadings took place. The case was listed on May 16, 1997.
2. The Applicant claims that the decision of the Bank taken on January 26, 1995 to declare his position redundant was an abuse of discretion and seeks reinstatement or compensation.
3. The Applicant joined the Bank in 1972. In February 1993, the Applicant was promoted to Cash Management Officer, level 21, in the Cash Management Department (CSH). He held this position until he was declared redundant in January 1995.
4. Prior to 1993, the Applicant received favorable performance reviews (PPRs). However, for the period of review from March 1, 1993, to December 6, 1993, he had a new supervisor (supervisor X) who, in a supplementary performance review, rated the Applicant's performance unsatisfactory. Among other things, she referred to a mistake he made on a De Nederlandsche Bank account so that the value dates of certain guilder amounts were out of sequence, which triggered subsequent errors. An investigation was made and the conclusion was that these reconciliation mismatches were due to a human accounting error and that there was no fraud or malfeasance involved. Because of the strained relationship between the Applicant and supervisor X, the Applicant was upon his request transferred to a different division at the end of December 1993.
5. In the Applicant's PPR covering the complete period of review from March 1993 to February 1994, a different supervisor (supervisor Y) favorably evaluated the Applicant from the time of his transfer in December 1993. Supervisor Y had previously also favorably assessed the Applicant for the review periods of April 1984 to April 1986.
6. The Applicant challenged supervisor X's March to December 1993 supplementary assessment. A Management Review Group (MRG), including the Director, Cash Management Department (CSH), reviewed this supplementary assessment and the Applicant's comments thereon. It was stated in the MRG's report, which was signed by the Director, CSH, that the Applicant's overall performance for the review period was less than fully satisfactory.
7. Beginning in November 1993, the Bank began to look into the reorganization of CSH with the objective of bringing it to par with the best practices in the banking industry. A benchmark study of cash management practices and techniques was initiated with twelve major financial and commercial organizations in the United States.
8. In September 1994, interim team leaders were appointed from a pool of senior staff to define the tasks and competencies for each process team. This group included supervisors X and Y as well as the Director, CSH. In December 1994, the final team leaders were selected from the group of interim team leaders. Among those

were included the Director, CSH and supervisor Y. That same month, staff members completed a CSH Staff Self-Assessment for Process Team Competencies and Placement Preferences form.

9. The restructuring of CSH resulted in eight regular staff members being declared redundant. In respect of the Cash Management Officer positions, the positions were reduced from four to three. The Applicant was not selected for any of these three positions. It was noted in a memorandum of January 17, 1995 from the Director, CSH, to the Vice President and Treasurer that the Applicant was a "satisfactory performer," but that there had been one less position at his level in the new organization and that he had been "considered to be not as qualified overall as the staff selected."

10. The Applicant was notified that his position was redundant under Staff Rule 7.01, paragraph 8.02(d), with effect from January 26, 1995. This paragraph provides:

Employment may become redundant when the Bank Group determines in the interests of efficient administration that:

...

d) Specific types or levels of positions must be reduced in number.

Staff Rule 7.01, paragraph 8.03, provides:

...Where positions are reduced in number, the selection of staff members whose employment is redundant shall be made on the basis of managerial judgment about the skills needed by the Bank Group to carry out its work effectively, taking into account the following factors:

(a) The performance of staff members;

(b) Whether the abilities and experience of staff members can be used elsewhere in the Bank Group; and

(c) ...

11. On July 7, 1995 the Applicant filed an appeal to the Appeals Committee against the Bank's decision to declare him redundant. The Appeals Committee recommended that the Applicant's request for relief be denied. The Bank accepted this recommendation.

12. In his application to the Tribunal, the Applicant contends that the decision to declare his position redundant was an abuse of discretion. First, the Applicant maintains that the reorganization which purported to reduce departmental staff in line with the goal of more efficiency with less cost, and also in line with the institutional budget reduction mandate, resulted in an increase in the overall number of staff in CSH instead of a decrease, and that this showed improper motives on the part of the Respondent. Secondly, the Applicant contends that the post-reorganization selection process was defective.

13. The Applicant seeks reinstatement to his prior position or to another equivalent position in the Bank as well as back pay from the time of termination to reinstatement. Alternatively, if the Respondent declines to reinstate him, the Applicant claims compensation equivalent to the amount of income he would have received until his normal retirement age of 65 years had the Bank not violated the terms of his employment.

14. The Tribunal has consistently held that it will not interfere with management decisions except in the case of an abuse of discretion or where the decision is arbitrary, discriminatory, improperly motivated or carried out in violation of a fair and reasonable procedure.

15. The issue before the Tribunal is whether the contested decision constitutes an abuse of discretion. Regarding the contention that the reorganization was for an improper motive, the Tribunal finds that there was a proper basis for the reorganization of CSH and that its purpose was to enhance efficiency and reduce

expenditures through position reductions. It resulted in eight regular staff members including the Applicant being declared redundant. The overall increase in the number of staff was due to a separate restructuring exercise which led to the creation of a new division in CSH to handle Systems Production, Office Technologies and Facilities. The redundancies were properly made pursuant to Staff Rule 7.01, paragraph 8.02(d). There is no evidence that the decision to declare the Applicant redundant was made for an improper motive.

16. On the procedural question, the Applicant contends that the post-reorganization selection process was an abuse of discretion in that the Respondent did not properly apply the selection criteria set out in Rule 7.01, paragraph 8.03, principally because it failed to take into account the performance of the Applicant and whether he had abilities and experience which could be used elsewhere in the Bank. The Applicant contends that he should have been selected to fill one of the three remaining Cash Management Officer positions as his qualifications and applied knowledge were superior to those of the other three staff members who were selected. He alleges that his non-selection was due to the adverse PPR made by supervisor X for the period March 1, 1993 to December 6, 1993 and the unfavorable assessment of the Director, CSH, and that both of them were prejudiced against him. He maintains that inadequate consideration was given to other positive PPRs made by other supervisors.

17. The Tribunal finds that there is no evidence that the Respondent abused its discretion in applying the selection criteria prescribed by Rule 7.01, paragraph 8.03, or that it was improperly influenced by supervisor X or the Director, CSH. The Tribunal notes that supervisor X was not in the final team that selected the persons to fill the three Cash Management Officer positions; she was one of the interim team leaders whose responsibility was rather to define the tasks and competencies for each process team. The Director, CSH, was in the final team that made the selection together with other team leaders; included among them was supervisor Y who had previously given the Applicant a number of favorable PPRs but who nonetheless did not select him for his team.

18. The Applicant also contends that he should have been placed in other positions in CSH or the Comptroller's Complex as he was qualified for those positions. The Tribunal is of the view that this is a matter for the discretion of the Bank and that there has been no proof of any abuse of discretion.

19. Accordingly, the Tribunal concludes that the Respondent's decisions relating to redundancy and non-selection did not constitute an abuse of discretion.

DECISION

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

Robert A. Gorman

/S/ Robert A. Gorman
President

Nassib G. Ziadé

/S/ Nassib G. Ziadé
Executive Secretary

At London, England, June 10, 1997