



**World Bank Administrative Tribunal**

**2009**

**No. 405**

**Ramanatou Zime,  
Applicant**

**v.**

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

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

**Ramanatou Zime,  
Applicant**

v.

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

1. This judgment is rendered by a Panel of the Tribunal established in accordance with Article V(2) of the Tribunal's Statute, composed of Jan Paulsson, President, and Judges Zia Mody, Stephen M. Schwebel, and Francis M. Ssekandi. The Application was received on 25 April 2009.

2. The Applicant seeks compensation for unfair dismissal and for the Bank's alleged failure to comply with the recommendations of the Appeals Committee, as approved by the Vice President of Human Resources ("HRSVP") on 20 December 2005. She seeks a total of \$811,178 consisting of (1) \$481,178, the difference between her initial request (\$500,000) and the amount granted by HRSVP following the recommendation of the Appeals Committee (\$18,822); (2) \$300,000 for mental distress; and (3) \$30,000 in attorney's fees. The Applicant also seeks reinstatement and HR support in her search for a new position.

**FACTUAL BACKGROUND**

3. The Applicant joined the Benin Office of the Bank on 22 August 1984, as a temporary staff member in the position of assistant to the country manager. Her temporary appointment was subsequently converted to a Regular appointment, and in 1994, at the suggestion of her then supervisor who noted her potential and skills, she was appointed to the position of Disbursement Assistant. While she maintained her position

until she left the Bank on 14 July 2005, the position evolved over the years, as additional staff was hired to perform some of the duties in finance and procurement. Accordingly, her duties also changed, so that she devoted only part of the time to disbursements. During the last five years of her employment with the Bank, the Benin office's investment lending portfolio and work program declined, impacting disbursement activities. Regarding her performance, one supervisor considered her work excellent, and viewed her as a negotiator with good diplomatic and problem-solving skills. Successive managers consistently rated her "superior" and in some cases "outstanding/best practice" and "fully successful."

4. As the work in the disbursement area decreased, management determined that the staffing of the Benin Office should be reviewed and, around December 2005, the country manager at that time ("Country Manager") informed the Applicant of her intention to declare the Applicant's position of Disbursement Assistant redundant. The Applicant received a notice of redundancy and termination on 6 January 2005, followed by an addendum two weeks later informing her that the six-month period, at the end of which she would be either reassigned or her job would be terminated, would end on 14 July 2004. Her redundancy became effective as of 14 January 2005. Her employment was terminated on 14 July 2005 and she was precluded from applying for another position at the Bank pursuant to the staff rules in effect at the time of her redundancy.

5. On 12 April 2005 the Applicant filed a Statement of Appeal before the Appeals Committee challenging the redundancy decision on the basis that it was an abuse of managerial discretion.

6. On 29 November 2005 the Appeals Committee concluded that the Bank abused its managerial discretion because the redundancy decision lacked a clear and legitimate business rationale and the process followed in implementing the redundancy was flawed. In particular, the Appeals Committee found that no specific study or analysis of the Applicant's Disbursement Assistant position was carried out and, contrary to the specific requirements of the Bank's rules, the decision was taken without input from relevant offices in the Bank, which might have opened opportunities for the Applicant elsewhere in the Bank. The Appeals Committee also observed that, at the time the decision was taken, there were a number of open positions at the Bank for which the Applicant could have been considered and for which she qualified given her good performance record. In fact, according to the Appeals Committee, the Country Manager of the Benin Office who terminated the Applicant's appointment admitted that during the 2004 OPE meeting, she had offered the Applicant the opportunity to assume the duties of assistant to the Procurement Analyst and the Financial Management Analyst, for which the Applicant was qualified but, in the end, she did not renew that offer for reasons the Appeals Committee found insufficient.

7. The Appeals Committee observed that:

The Tribunal has stated that there is a proactive duty on behalf of the Bank to help redundant staff look for other job opportunities. In *Ingo*, for example, the Tribunal found that management's delay in bringing the Applicant's redundancy case sooner to a Sector Board to identify and determine possible opportunities within the Bank, may have prejudiced the Applicant's chances of finding employment in the Bank.

8. As compensation, the Appeals Committee recommended that the Applicant (1) be paid an amount of one year's salary and up to \$10,000 in attorney's fees; and (2) that "[t]he Respondent waive the restriction imposed upon the [Applicant] by Staff Rule 4.01

(Entering Employment), paragraph 8.03(a) (Reappointment After Redundancy) regarding her eligibility for reappointment with the Bank Group, and allow the [Applicant] the opportunity to apply for jobs within the Bank Group.”

9. HRSVP accepted these recommendations on 20 December 2005 and the Applicant began searching for a new position at the Bank. The Country Manager, Africa Human Resources Team (“HR Manager”) at the time appears to have been in constant communication with the Applicant. While providing counsel and advice to the Applicant on how to carry out her search, the HR Manager emphasized that it was for the Applicant to identify jobs and submit applications, and that it was not the Bank’s duty to help her in her job search beyond allowing her to apply through the Bank’s external website. For over three years, the Applicant unsuccessfully submitted applications in the manner suggested by the HR Manager (48 applications in all). As the exchange of communication shows, the HR Manager played only a passive role in the Applicant’s job search. As the HR Manager later explained in one of her e-mail messages, the obligation undertaken by the Bank in accepting the Appeals Committee’s recommendation did not, in her view, extend to apprising the Applicant of any vacancies and was limited to allowing her to search for openings on the Bank’s website on her own and to apply for jobs as she considered appropriate.

10. It appears that the HR Manager retired in February or March 2008 but stayed with the department part-time as a Short Term Consultant. On 25 March 2009 the HR Manager informed the Applicant by e-mail that she would no longer be able to provide assistance to the Applicant in her job search and neither would her successor in the job. In particular, the HR Manager explained that:

I reached mandatory retirement age and retired in March 2008, but have been working a few days a week since then as a consultant. My replacement, as Manager of the Africa HR Team, would not be able to assist you in your job search. Any support I have provided you was personal, as a former colleague, not because it was part of a duty or requirement. I do recall the outcome of the Appeals Recommendation, as accepted by HRSVP, which is to allow you to apply for jobs within the Bank Group. I can assure you that this was met in full from the beginning and you are indeed eligible to apply and be reappointed if selected for a position.

11. On 25 April 2009 the Applicant filed an Application directly with the Tribunal. She based her grievance on the e-mail message above which she argues constituted notice of the Bank's intent not to carry out its obligation under the decision taken by HRSVP on the recommendation of the Appeals Committee.

#### THE PARTIES' CONTENTIONS

12. The Applicant argues that (1) the Bank failed to "implement [its] commitments and obligations in good faith" as set out in the HRSVP decision; (2) "the change made by [HR] violates the principle of good faith and is fraudulent"; (3) "*no serious effort* was made by [HR] to assist her in her search for a new position"; and (4) "such fraud caused [the Applicant] a material injury and mental distress that deserve compensation."

13. The Applicant contends that the correspondence between her and the HR Manager over the years led her to believe that "her applications for positions will be closely monitored for an eventual recruitment." She notes that the Bank improperly denies it had a commitment to the Applicant and that the time she spent submitting applications in vain, in the hope that she was being aided in her effort, demonstrates a lack of serious effort to comply with HRSVP's decision. She claims that the Bank did not even attempt to show that it provided her support in her job search, arguing instead that it was under no obligation to assist her with her job search.

14. The Applicant notes that her inability to secure a position after applying for 48 positions shows that the waiver of the restriction on reappointment was meant “to seduce the claimant.”

15. As to the admissibility of her Application, the Applicant notes that if the Tribunal were to consider her Application untimely, she relies on its “good judgment” with respect to compensation.

16. In response, the Bank argues that the Applicant’s claims should be dismissed by the Tribunal because they are untimely and without merit. The Applicant has not provided any evidence to support her claims. Furthermore, the burden is on the Applicant to “advance her own claims.”

17. In particular, the Bank asserts that it is not required to provide the Applicant with job search assistance, nor is it required to reinstate her. According to the Bank, the Applicant mischaracterizes HRSVP’s decision by interpreting it as a commitment to provide support to the Applicant in her job search. The Bank explains that HRSVP required the Bank to waive the restriction on reappointment and allowed the Applicant to apply for jobs at the Bank, which she did, by her own admission, close to 50 times.

18. With respect to the Applicant’s claim that the Bank made a commitment to provide her with job search assistance, the Bank notes that as early as 28 December 2005 she was informed that she would find job opportunities listed on the Bank’s external website from which she could apply “directly.” She was informed that “HRS will make sure that you are able to apply, that no restriction is flagged.” The Bank argues that such statements do not obligate “the Bank to provide [the] Applicant with job placement assistance.”

19. In addition, the Bank argues, in an e-mail message dated 12 January 2006 the Applicant was told clearly that

the institution is not charged with apprising you of any vacancies. The onus is on you to search for and apply for jobs within the Bank. Therefore you will not be informed of any vacancies ... but you are welcome to apply for jobs within the Bank, which will be identified on the Bank's external website.

20. Last, the Bank argues that in another e-mail message dated 15 May 2008 it was again made clear that no assistance would be provided to the Applicant with short listing as "each unit does its own short-listing with their particular sector board [and] there is little input I or anyone else can add from outside."

21. As to the alleged requirement that the Bank reinstate the Applicant, the Bank notes that neither the Appeals Committee's recommendations and HRSVP's decision to accept them nor the HR Manager's e-mail messages "in any way" required the Bank to reinstate the Applicant; the only instruction was that the Bank waive the restriction on reappointment, which it did.

22. With respect to the jurisdictional objection, the Bank claims that the Applicant failed to exhaust internal remedies as required by Article II of the Statute of the Tribunal and, without any justification for doing so, proceeded directly to the Tribunal instead of bringing her grievances first to the Appeals Committee. The Bank further argues that the Applicant fails to even acknowledge or explain why she did not exhaust internal remedies as required in the Tribunal's Statute.

## THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

### ADMISSIBILITY

23. The first issue to resolve in this case is whether the Application before the Tribunal is admissible. Pursuant to Article II, paragraph 2, of the Tribunal's Statute



No ... application shall be admissible, except under exceptional circumstances, as decided by the Tribunal, unless:

- (i) The applicant has exhausted all other remedies available within the Bank Group, except if the applicant and the respondent institution have agreed to submit the application directly to the Tribunal; and
- (ii) The application is filed within one hundred and twenty days after the latest of the following:
  - a. The occurrence of the event giving rise to the application;
  - b. Receipt of notice, after the applicant has exhausted all other remedies available within the Bank Group, that the relief asked for or recommended will not be granted; or
  - c. Receipt of notice that the relief asked for or recommended will be granted, if such relief shall not have been granted within thirty days after receipt of such notice.

24. It is not disputed that the Applicant's grievance relating to the improper redundancy and termination has already been considered by the Appeals Committee, and that its recommendations of 29 November 2005 were accepted by HRSVP on 20 December 2005. What is in dispute is whether, as the Bank maintains, the present Application should have been addressed to the Appeals Committee, on the assumption, presumably, that the Applicant is raising fresh grievances unrelated to the initial claim. In other words, if the Applicant is raising fresh grievances (i.e. the Bank's failure to implement HRSVP's decision), she would have had to file a Statement of Appeal with the Appeals Committee within 90 days of finding out that the Bank would not be implementing HRSVP's decision. If the Tribunal finds that the Applicant's contentions before the Tribunal relate directly to the claim she submitted to the Appeals Committee in 2005 and on which the Bank has already rendered its final decision, then she would have

had to file her Application within 120 days of HRSVP's decision. Since she did not, and in the absence of any exceptional circumstances, her Application would be time-barred.

25. Accordingly the Tribunal must determine whether, in accepting the recommendation of the Appeals Committee, the Bank intended to provide meaningful redress to the Applicant or whether, as the Applicant alleges, the intention was merely to lure her into not proceeding further with her claims. She argues that she genuinely believed that the Bank would act fairly and transparently in considering her case and find her alternative employment, only to learn later that all the Bank intended was to allow her to apply for jobs without the intention to provide meaningful assistance to her in this endeavor. A subsidiary but crucial additional issue is the time at which she learnt of the Bank's true intentions.

26. In 2005 the Appeals Committee reviewed the Applicant's case and arrived at distinct conclusions on the evidence on each of the issues raised. The Appeals Committee found, *inter alia*, that the redundancy decision was flawed and violated the Bank's rules which require, before declaring a staff member's position redundant, a proactive effort to secure an alternative position, commensurate with his or her qualifications. It also found that the Applicant was not considered for certain positions which could have been offered to her and that in taking the final decision to declare the Applicant's position redundant, certain other relevant offices in the Bank were not consulted. It concluded that the decision to terminate the Applicant's employment was taken without following proper procedures and constituted an abuse of discretion. It is on the basis of these findings that the Appeals Committee recommended waiver of the restrictions on staff terminated for abolition of post, under Staff Rule 4.01, paragraph

8.03(a), effective at the time, from reappointment in the Bank. The Bank accepted this recommendation.

27. The Applicant has contended that she believed she would be offered a position in the Bank following the outcome of the Appeals Committee process. She specifically states that she accepted the reduced compensation offered to her “trusting the good faith of the Institution and in which the claimant was to be reinstated to the World Bank.” According to her the involvement of the HR Manager in her search for a new job reinforced her belief that the Bank was seriously considering reinstating her, and that this led her to accept the decision of HRSVP on the recommendation of the Appeals Committee. All this changed when she received the letter from the HR Manager on 25 March 2009 informing her that she provided her assistance on a personal basis and her successor would definitely not continue to do so, as the Bank had no such obligation.

28. The Tribunal observes that the Applicant’s duty station was in Benin and her communication with the Bank officials in Washington would have been limited, making it difficult to assess her true situation following the decision of HRSVP. It appears that working with the HR Manager gave her a measure of comfort and assurance that the Bank would find a position for her if she applied for the vacant positions posted on its website. In this respect, the Tribunal notes that the evidence in the record of the communications between the Applicant and the HR Manager and the involvement of the HR Manager in the Applicant’s job search was limited. The Bank emphasized that it would allow the Applicant to apply through the Bank’s external website, but it was for the Applicant to identify jobs and submit applications. On 25 March 2009 the HR Manager informed the Applicant that she was retiring and would no longer be available

to assist her, and that her replacement would not be available to do so either. The Applicant interpreted this as a definitive decision by the Bank to cease to meet its obligation to assist her in finding alternative employment.

29. The Tribunal accepts that the Applicant considered the e-mail message from the HR Manager to constitute the decisive moment when the Applicant realized she was on her own and the Bank had no intention to transfer her to a new position in the Bank at its initiative. By the same token, the Tribunal accepts the Applicant's argument that she accepted and did not challenge the decision of HRSVP at the time it was made because she believed that the Bank would assist her to find another job.

30. Given these circumstances, the Tribunal is satisfied that the Application is directly related to her initial claim which was already considered by the Appeals Committee. The Tribunal notes, however, that three years have passed since HRSVP accepted the Appeals Committee's recommendation. The Tribunal takes into account the exceptional nature of the Applicant's situation as outlined above and the fact that she filed her grievance with the Tribunal promptly when she received notice on 25 March 2009 that the Bank would no longer be providing her with assistance and that in any case never considered it owed her any obligation. Article II, paragraph 2, of the Tribunal's Statute permits the Tribunal to entertain applications in exceptional circumstances. On this basis, the Tribunal decides that the Application is admissible.

#### MERITS

31. At the outset, the Tribunal recalls its statement in *Martin del Campo*, Decision No. 292 [2003], para. 49, that "the implementation of Staff Rules dealing with redundancy must be effected with strict observance of fair and transparent procedures lest managers pay no more than lip-service to the required standards." In *Ingco*, Decision No.

331 [2005], para. 76, the Tribunal emphasized the Bank's obligation "to make genuine efforts to find alternative positions for redundant staff."

32. Redundancy is governed by Staff Rule 7.01. The Applicant's appointment was terminated when her post was declared redundant under paragraph 8.02(b) of this Staff Rule. The Appeals Committee found, and the Bank accepted, that the process prior to declaring the Applicant's position redundant was flawed for failure to involve other relevant divisions of the Bank, and the failure of the Country Manager to offer her even one position prejudiced the Applicant's chances of finding alternative employment in the Bank. The Appeals Committee noted that prior to declaring the staff member's position redundant HR must take proactive steps to assist a staff member to look for other job opportunities within the Bank. The Appeals Committee found that, contrary to the requirements of the Staff Rules,

Human Resources did not take proactive steps to assist the [Applicant] to look for other job opportunities within the Bank *prior to proceeding with the process to declare her position redundant*. ... The record shows there were options that had not been communicated to the Applicant at the time [her supervisor] informed [the Applicant] that they were going to proceed with the redundancy. (Emphasis added.)

33. Paragraph 8.06 of Staff Rule 7.01 on reassignment and retraining sets out the obligations incumbent on the Bank once a notice of redundancy and termination has been issued:

Following the effective date of the notice of redundancy and termination, the Bank Group will assist redundant staff in seeking another position within the Bank Group by providing access to the Job Search Center and the Job World. Redundant staff will be matched with existing vacancies in the Job World for consideration along with other applicants. This will include positions, the duties of which are commensurate with the staff

member's qualifications, or for which the staff member can be retrained in a reasonable period of time.

34. It is clear that the Bank has the duty, prior to termination, to match staff who have been made redundant with available positions commensurate with the staff member's qualifications and to even consider possible retraining where such qualifications are wanting. The Tribunal is not satisfied that the Bank met its obligations under paragraph 8.06 of Staff Rule 7.01, to assist the Applicant in finding a job that matched her qualifications or a position in which she may be retrained, prior to terminating her employment.

35. After her employment was terminated, the Bank and the HR Manager did not believe they had an obligation to provide this kind of assistance to the Applicant. The Tribunal finds that the provision of such assistance would have been an essential means to redress the harm suffered by the Applicant as a result of the Bank's failure to comply with its obligations.

36. The Tribunal notes that the Applicant held a Regular appointment and, but for the redundancy, would have expected to serve until retirement should her performance have continued to be satisfactory. Indeed, in this case the Applicant's overall performance evaluations rated her in large part "superior."

37. The Tribunal, noting the Appeals Committee's recommendation to waive the restrictions on reappointment and permit the Applicant to apply for Bank jobs, finds that the circumstances of the Applicant's separation required a much more proactive effort to assist the Applicant to find alternative employment, by, for example, directing her to available vacancies either in the Benin Office or elsewhere in the Bank, matching her qualifications with posts available and even providing retraining opportunities as

contemplated in paragraph 8.06 of Staff Rule 7.01. The Tribunal is not satisfied that the Bank took sufficient steps to remedy the injury caused to the Applicant as a result of its failure to discharge its obligations under the staff rules. The Tribunal accordingly finds merit in the Applicant's claims.

DECISION

For the above reasons the Tribunal orders that:

- (i) the Bank shall pay the Applicant compensation in the amount of 18 months' net base salary;
- (ii) the Bank shall pay the Applicant attorney's fees in the amount of \$5,000; and
- (iii) all other pleas are dismissed.

/S/ Jan Paulsson  
Jan Paulsson  
President

/S/ Olufemi Elias  
Olufemi Elias  
Executive Secretary

At Washington, DC, 7 October 2009