

## Summary of EJ v. IBRD, Decision No. 572 [2017]

The Applicant challenged the following decisions before the Tribunal: (i) his non-selection for the position of ICT (Global Informatics and Communication Technologies Department) Practice Manager in the Transport and ICT Global Practice (GTIDR); (ii) his 2015 Overall Performance Evaluation (OPE); and (iii) his 2015 performance rating.

Regarding his non-selection, the Applicant claimed that he was discriminated against based on his gender and excluded from the shortlist even though he was eminently qualified for it. He also claimed retaliatory motives behind his non-selection and questioned the objectivity, transparency and rigor of the selection process. The Tribunal first observed that the Bank acted consistently with its principles in encouraging females to apply for the ICT Practice Manager position and in instructing the recruitment teams to be mindful of the organizational aims for diversity and inclusion. Based on the record, the Tribunal concluded, however, that gender or nationality of the candidates played no role in the shortlisting process and that the selection process was based on merit. The Tribunal further observed that each candidate was treated equally and their qualifications and skills assessed on similar basis. The Tribunal found that the Bank had disproved the alleged discriminatory motives and explained its conduct in a legally acceptable manner. Concerning the retaliatory motives alleged by the Applicant, the Tribunal found that the Applicant did not substantiate his claim that any or all the Shortlisting Committee (SLC) members knew of his protected activities at the time the shortlisting or the reconsideration of the Applicant's shortlisting took place. The Tribunal concluded that the Applicant did not establish facts sufficient to amount to a *prima facie* case of retaliation. With regard to the Applicant's claim that the non-inclusion of a GG/GH staff representative in the SLC called into question the objectivity, transparency, and rigor of the shortlisting process, the Tribunal found that the Bank's decision not to include a GG/GH staff representative in the SLC was not arbitrary or did not lack a reasonable and observable basis.

The Applicant further claimed that his 2015 OPE and performance rating were conducted unfairly and did not follow due procedures. He contended that he was not given sufficient notice of any performance deficiencies, was denied the opportunity to defend himself, and had his positive feedback ignored by the Bank, which led to a low assessment and rating of his 2015 performance. The Tribunal found that there were no violations of due process and that the Applicant's rights to receive adequate notice and defend himself were fully observed throughout the Applicant's 2015 OPE process. Regarding the determination of the Applicant's performance rating, the Tribunal found that the Applicant's rating of 3 resulted from a proper evaluation and discussion by management and was consistent with the Applicant's performance. Finally, the Tribunal concluded that the Applicant's performance rating of 3 was supported by the record, had an observable and reasonable basis and was not tainted by retaliation.

**Decision:** Application dismissed.

This summary is provided to assist in understanding the Tribunal's decision. It does not form part of the reasons for the decision. The full judgment of the Tribunal is the only authoritative document. Judgments are available at: [www.worldbank.org/tribunal](http://www.worldbank.org/tribunal)