

Summary of CY v. IBRD, Decision No. 519 [2015]

The Applicant who had initially worked at the Bank as a Junior Professional Associate joined the Bank again in January 2009 on a twelve-month Extended Term Consultancy (ETC) with the Integrity Vice Presidency (INT). In December 2010, he secured a three-year Term Appointment as an Investigative Analyst, Level GE in INT. His Letter of Appointment (LOA) specified that this position was subject to local recruitment in the United States and that therefore the Applicant was not eligible for (i) relocation benefits on appointment; (ii) resettlement benefits on termination; or (iii) a Mobility Premium “either now or in the future should he be promoted or reassigned to a position subject to international recruitment in the U.S.” Thereafter he applied and was selected to a position of a GF-level Investigator in INT. He was given a three-year Term Appointment effective 1 October 2013. When the Applicant inquired when he would be receiving the Mobility Premium he was informed that his recent promotion did not make him eligible for the Mobility Premium per Staff Rule 6.21 paragraph 2.08, “Change in Position Exemption.” The Applicant challenges the Bank’s decision to deny him a Mobility Premium.

The Tribunal found, among other things, that: (i) having applied to a higher-level position advertised in the myJobWorld posting system and after a competitive selection process, the Applicant was selected and reassigned to that position and was accordingly promoted pursuant to Staff Rule 5.05, paragraph 2.01(c); (ii) the Bank has often established conditions and criteria when administering benefits and the Tribunal has found in the past that doing so is not arbitrary or unfair; (iii) the Bank has applied the Change in Position Exemption lawfully in accordance with long-standing policy and the Applicant had been properly notified that it would be applicable to him from the time that he was appointed as a staff member in the Bank; (iv) the Applicant’s claim of discrimination cannot be upheld because he is in a different situation from other staff of the Bank who are governed by other Staff Rules; (v) the external candidates who applied and were selected to positions subject to international recruitment as well as the staff members initially recruited internationally and later promoted to positions subject to international recruitment are to be distinguished from the Applicant, who was initially appointed to a level-GE position subject to local recruitment and then promoted to a position subject to international recruitment; (vi) documentation before the Tribunal shows that the Applicant was not similarly situated with

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

the Young Professionals (YPs); (vii) the Bank has provided a legitimate justification for the differential treatment and the award of the Mobility Premium to the YPs; and (viii) permissible differentiation and the award of the Mobility Premium to the YPs, even if they had earlier held a lower-level position at the Bank, is justified first on account of the high standard of the requirements of the Young Professionals Program (YPP) as well as on account of the treatment of YPs' selection to this "highly competitive, elite program" as a new appointment and not as a promotion or reassignment.

The Tribunal nevertheless noted that greater transparency on the part of the Bank regarding the particular treatment of the YPs through publication of the Mobility Premium policy and the exceptions to it might have avoided the Applicant's "disappointment and confusion" as well as his misunderstanding of the YPP and ordered the Bank to pay the Applicant's attorney's fees. It dismissed all other pleas.