

## Summary of DB v IFC, Decision No. 524 [2015]

The Applicant challenged his Director's decision to reassign him to a non-managerial position. He also challenged the subsequent decision by the Vice President and General Counsel (VPGC) of the IFC to make payment of compensation for procedural flaws associated with the reassignment decision contingent upon the Applicant signing a waiver of his claims.

The Applicant had worked for the IFC since 1998, and had been a manager since 2002. From 2011, the Applicant had a sometimes difficult relationship with his Director. The Director was concerned that the unit lacked sufficient investment operations experience. In October 2013, the Director informed the Applicant that she was planning to reassign him from his managerial position. Two weeks later, she informed him that he was being reassigned, effective immediately. She stated that the department's needs had changed, and that she intended to hire a new manager with investment operations experience. The Applicant protested against the decision, the underlying rationale and the pace with which it was being implemented. The Director refused to delay implementation of the decision. In his new position, the Applicant faced some uncertainty regarding his precise responsibilities, and reporting lines.

The parties attempted mediation, without success, and the Applicant filed a request for review before PRS. PRS found that the Director had exercised her discretion appropriately and had provided a reasonable and observable basis for the reassignment decision, but had made this decision before providing the Applicant with the consultation required under Staff Rule 5.01, paragraph 2.05, and had acted with excessive haste and urgency. It recommended that the Applicant be compensated in the amount of two months' net salary. The VPGC accepted this recommendation, and offered to pay the Applicant the compensation recommended if the Applicant would sign an acceptance form under which he agreed to waive any further claims in any forum, including the Tribunal. The Applicant refused to accept this condition.

Before the Tribunal, the Applicant argued that there were no business reasons to justify the reassignment decision, which was unplanned and implemented in an overly hasty manner without the requisite consultation. He further claimed that his Director had subsequently manipulated his performance assessment so as to provide *post hoc* justification for her reassignment decision. He also contended that the approach by the VPGC severely interfered

with a basic staff right by denying remedies for wrongdoing. The IFC maintained that the reassignment decision was justified by its changing business needs, and complied with procedural requirements. It also argued that the Applicant's claim regarding the waiver form mischaracterized the PRS system. The Staff Association submitted an *amicus curiae* brief in support of the Applicant's contentions.

The Tribunal concluded that there was insufficient evidence of changing business needs such as would justify the reassignment decision. It highlighted the lack of documentary support for the IFC's contentions, the inconsistency in the justifications provided, the rapidity with which the decision had been taken and implemented, and the lack of clarity regarding the Applicant's new position.

The Tribunal also concluded that the Director had failed to comply with the consultation requirement in Staff Rule 5.01, paragraph 2.05, and with the Principles of Staff Employment. Again, it highlighted the lack of documentary support for the IFC's contentions. The Tribunal found that the IFC had committed an additional procedural breach in failing to give the Applicant adequate warning of the perceived deficiency which had led to the adverse action taken against him.

The Tribunal endorsed the statement of PRS that the lack of documentation in the record was problematic. It observed that a written record of a decision-making process both assists any subsequent review, and also facilitates transparency and helps ensure that no abuse of discretion arises in the first place.

With respect to the alleged manipulation of the Applicant's performance assessment, the Tribunal concluded that there was insufficient evidence of wrongful conduct such that would require the remedy requested.

Regarding the third issue raised by the Applicant, the Tribunal stressed that making receipt of compensation for an identified violation of the Applicant's rights under the Staff Rules conditional upon a waiver of fundamental appeal rights was inappropriate.

The Tribunal ordered that the reassignment decision be rescinded and that all records thereof be removed from the Applicant's personnel files. It ordered the IFC to pay the Applicant compensation in the amount of one year's net salary, as well as his attorney's fees.

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)