

Summary of EL v. The World Bank Group, Decision No. 577 [2018]

The Applicant, a 55-year-old woman from a Part 2 country, submitted an Application to the Tribunal contending that her salary after 27 years at the World Bank Group was unreasonably low when compared to her peers and applying reasonable factors. She challenged the salary reviews conducted by the Bank Group to assess her salary on the grounds that there was no reasonable and observable basis for the criteria selected and that she was not compared to peers performing similar job functions. In addition, the Applicant challenged decision to give her a 2.5% *ad hoc* salary increase to remedy disparity in her pay compared to her peers.

The Tribunal found that the central issue in this case was whether the Bank Group took into account all relevant factors to ensure a reasonable and fair assessment of the Applicant's salary. Upon review of the criteria adopted by the Bank Group in conducting the Applicant's salary review, the Tribunal held that the Bank Group failed to compare the Applicant's salary with those of her actual peers who perform similar work, holding that similarity of job function is a critical factor in assessing pay inequity. The Tribunal held that the failure to include similarity of job function as a criterion in the salary comparison was a fundamental flaw in the salary reviews conducted for the Applicant, rendering them an inadequate basis for a decision to award the Applicant an *ad hoc* salary increase. In addition, the Tribunal held that the Bank Group inappropriately prioritized the performance criterion above other relevant criteria for salary reviews without providing a reasonable and observable basis for that decision, nor considering the circumstances around which performance ratings are awarded at the Bank Group. In the Tribunal's judgment this case highlighted the need for the Bank Group to reconsider and reevaluate its compensation policies in as much as they may result in disparities in salaries for staff members who, like the Applicant, are performing well and meeting or even exceeding performance expectations as recognized by their supervisors but are being given SRI/Performance ratings of "3".

The Tribunal also addressed the Applicant's allegation of discrimination and her request for a new salary review which would compare her salary to those of her Caucasian male counterparts. The Tribunal took note of the 2017 Diversity & Inclusion Study which revealed gender and nationality pay gaps within the Bank Group. The Tribunal also took note of the Bank's response to the Applicant that, "There is no 'Caucasian male performing Applicant's function with similar education and experience and grade' with a performance history as poor as Applicant." Noting that the Bank Group's response depicted a certain insensitivity to the concern about unconscious biases and preferences that result in hiring and promotion practices that tend to favor male staff members from Part 1 countries, the Bank Group was ordered to, *inter alia*, conduct a new salary review for the Applicant to determine whether her salary is properly positioned *vis-à-vis* her counterparts regardless of gender or nationality.

Finally, the Tribunal held that in its conduct towards the Applicant, the Bank Group violated certain due process rights, failed to act transparently and failed to treat the Applicant fairly. The Bank Group was cautioned about the tone in some of its pleadings before the Tribunal and reminded that a legitimate appeal to address any salary inequities by a staff member should not be characterized as a "mere desire for more money."

Decision: The Bank Group was ordered to, *inter alia*, conduct a new salary review within 60 days of the judgment and pay the Applicant 9 months' salary for due process violations, the failure to act transparently and to treat the Applicant fairly.

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.