

Summary of EM v. IBRD, Decision No. 578 [2018]

The Applicant alleged that the Bank breached its promise to resolve her “permatemp” situation, abused its discretion in failing to renew her short-term consultant (STC) contract, failed to communicate with her clearly regarding the removal of her work program, and failed to treat her fairly as required by the Principles of Staff Employment. The Applicant also alleged retaliation against the Bank for her use of the Bank’s Conflict Resolution System.

The Applicant contended that the Vice President of her VPU promised to address the fact that she had been employed by the Bank on short term contracts consecutively for 8 years. Following this alleged promise, a position was created in her unit and the Applicant was encouraged by the Vice President to submit an application. The Applicant challenges the fact that she was not shortlisted for further consideration by the selection advisory committee. The Bank argued that the Vice President did not make any promises to the Applicant. Upon review of the evidence, the Tribunal was satisfied that the Vice President promised to create an opportunity for the Applicant to legitimately compete for a position in her unit; however, this promise did not include a promise to match the Applicant’s qualifications and responsibilities. The Tribunal was equally satisfied that the one who made this promise, the Vice President, was an official with the authority to make a legally valid promise and capable of taking action attributable to the Bank.

The Tribunal then considered whether the Bank breached the promise made to the Applicant and found that it did so. According to the Tribunal, since the position was advertised as an opportunity for the Applicant to reasonably compete for a term position in the VPU, her exclusion by the selection advisory committee on the basis of data analytics skills may have eliminated her chances, even though she appeared to have met many of the job requirements including some which were considered to be advantageous. The Applicant may not have been the successful candidate; however, since she met the criteria for the position, shortlisting her would have accorded her an opportunity to legitimately compete for the position and would have been the fulfilment of the promise made to her by the Vice President. The Tribunal found that the Applicant was deprived of this opportunity and the Bank has failed to provide the explanations for that decision.

Additionally, the Tribunal found that the Bank treated the Applicant unfairly in the reallocation of her work program and the failure to communicate the nonrenewal of her contract in a timely manner. Although the Applicant already received some compensation for these infringements following the Peer Review Services (PRS) process, the Tribunal noted that the treatment of the Applicant, after a long service at the Bank on consecutive STC contracts, was particularly egregious and she has not yet been compensated for the Bank’s violation of due process. Finally, the Tribunal found that the Applicant demonstrated that the decisions not to renew her STC contract and not to shortlist her were improperly tainted by concerns about her working relationship with the Senior Operations Officer as a result of her complaints against him to EBC. Although there was insufficient evidence on the record to substantiate an allegation of retaliation for use of the conflict resolution system, the Tribunal held that the Bank failed to present a reasonable and observable basis for its decisions.

Decision: The Bank was ordered to pay the Applicant 180 days’ compensation net of taxes at her last STC rate and \$30,000 for the Bank’s failure to properly respond to the Tribunal’s order for documentation. The Tribunal found that the Bank did not meet its obligation to respond properly to the Tribunal’s order for the production of relevant documents in the Bank’s exclusive possession.

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.