

## Summary of DH v. IBRD, Decision No. 531 [2016]

The Applicant, who had joined the Bank in 1982, had brought an application before the Tribunal in the past challenging her non-selection to an RM (Resource Management) Assistant position. The Tribunal found irregularities in the selection process and awarded the Applicant compensation. During FY13 the Applicant was approved for Short-Term Disability (STD) and was either absent from work on STD or on an STD modified work schedule. The Applicant's 2013 Overall Performance Evaluation (OPE) included five "Partially Successful" ratings. The Applicant received a "disability rating" and a corresponding 1.2% salary review increase (SRI) for 2013. Following the Applicant's request to the newly-appointed Vice President (VP) for the Concessional Finance and Global Partnerships (CFP) Vice Presidency (CFPVP) for more involvement in RM tasks in the Front Office, the VP transferred her in July 2013 from a Financial Assistant position at CFPVP to a Program Assistant position at the Multilateral Trusteeship and Innovative Financing Unit (CFPMI). Following 24 months on STD and after undergoing an Independent Medical Evaluation, the Applicant was approved for Long-Term Disability (LTD). The notification of the Applicant's approval for LTD benefits and the resultant termination of her employment was not sent to her when it was issued. Consequently, she went on scheduled home leave and had a limited amount of time to prepare for her separation from the Bank upon her return. The Applicant challenged her 2013 OPE and SRI and the termination of her employment through her placement on LTD. She also raised claims of career mismanagement. The Bank filed a Preliminary Objection regarding some of the Applicant's claims. The President of the Tribunal decided that the Preliminary Objection shall be joined to the merits.

The Tribunal found admissible the Applicant's claims related to her 2013 OPE and SRI, her claims of career mismanagement, discrimination and retaliation in relation to her principal claims, and the Applicant's challenge of the termination of her employment. The Tribunal held inadmissible: (i) the Applicant's claims of discrimination, retaliation, and career mismanagement pertaining to decisions that the Tribunal had already addressed in its judgment in the Applicant's first case; and (ii) claims which the Applicant had not filed in a timely manner before the Tribunal. Regarding the merits, the Tribunal held, *inter alia*, that: (i) the Applicant's 2013 OPE was substantively flawed as the OPE ratings and Overall Comments were not supported by the evidence but in fact lacked observable basis, positive views were either not taken into account or not given proper weight, and any negative factors, if existent, were given disproportionate weight; (ii) the Bank did

not respect the Applicant's due process rights under the Staff Rules in relation to her performance evaluation for FY13; (iii) while the lack of business needs for an RM position in CFPVP and the intention to give the Applicant a fresh start might have justified the Applicant's reassignment to CFPMI, to the extent that the decision was also based on her flawed performance evaluation her reassignment was tainted by irregularity and therefore the Applicant was unfairly treated; and (iv) the delay in the notification of the Applicant's receipt of LTD benefits and the resultant termination of her employment as well as the handling by Human Resources of her situation in the days after she was found eligible for LTD violated her due process rights and resulted in some prejudice to her. The Tribunal also found that the Bank observed its obligation under the Staff Rules and the Disability Guidelines and properly awarded the Applicant the fixed salary increase for that year which was 1.2%. The Tribunal did not find that the Applicant had made a *prima facie* case of discrimination or retaliation in relation to her 2013 OPE, SRI or career mismanagement claims. The Tribunal ordered that the Applicant's 2013 OPE be rescinded and any reference to it be removed from her personnel file and the Bank pay the Applicant: (a) an amount of six months' salary net of taxes for the irregularities in her OPE; (b) an amount of two months' salary net of taxes for the lack of proper notice in relation to the termination of her employment; and (c) costs in the amount of \$8,000.