

Summary of Decision No. 472

M (No.2),
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

The Applicant claimed that the Bank failed to reinstate him in accordance with the Tribunal's prior judgment in *M*, Decision No. 369 [2007], in which the Tribunal rescinded the Bank's decision to terminate his appointment and ordered the Bank to reinstate him. The Applicant argued that the Bank was required to reinstate him to his former position as a Country Manager or to a similar Country Manager position. Instead, the Bank assigned the Applicant to a Senior Technical Specialist position based in Washington, arguing that it had thereby properly reinstated him because this position was at the level of the Applicant's post at the time his employment was terminated, was consistent with his area of expertise and met a demonstrable business need.

First, the Tribunal took a "contextual" approach to the issue of reinstatement. The Tribunal stated that the position of Country Manager is by its very nature a sensitive post and that, therefore, automatic reinstatement to such a post was not the only way to satisfy the order of reinstatement. The Tribunal noted that "there may be circumstances where the reinstatement to the same job is such a straightforward matter that it would make little sense not to proceed that way. In the case of a small country office, to the contrary, where the Country Manager is relieved of his functions in circumstances that have been the subject of adverse publicity, it may be counterproductive to the objectives of the Bank and to its mission in that country to insist, come what may, on his return". Second, the Tribunal clarified that the reinstatement order did not give the Applicant a perpetual right to a Country Manager position, noting that the duration of the Applicant's assignment in 2004 to the Country manager position was three years.

The Tribunal also noted that managerial assignments in the Bank are earned through competitive selection processes and that the Applicant faced difficulty in securing a Country Manager position through such processes, but recalled that it had awarded a significant amount of compensation to the Applicant contemplating damage to his career by the unlawful termination of his employment.

Decision: The Application was dismissed.