

Summary of Decision No. 473

Bhatia,
Applicant

v.

International Bank for Reconstruction and Development,
Respondent

The Applicant challenged the Bank's policy of mandatory enrollment in Medicare Part B under the Retiree Medical Insurance Plan ("RMIP").

The Tribunal recalled that the scope of its review is limited when a policy of this kind is challenged, noting that its role is to examine whether there has been non-observance of the contract of employment or terms of appointment of the Applicant. The Tribunal further recalled: "So long as the Bank's resolution and policy formulation is not arbitrary, discriminatory, improperly motivated or reached without fair procedure, there is no violation of the contract of employment or of the terms of appointment of the staff member".

The Tribunal then examined the Applicant's claim that the policy as applied to him was discriminatory. The Tribunal found that the Bank required all eligible U.S. retirees over the age of 65 to enrol in Medicare, and that there was no discriminatory treatment among retirees in similar situations to the Applicant. The Tribunal also rejected the Applicant's argument that the Bank's policy is inconsistent with the principle of parallelism because at the International Monetary Fund ("IMF"), enrollment in Medicare Part B is voluntary. The Tribunal concluded that "the principle of parallelism does not bind the Bank to adopt the policies of the IMF".

Finally, the Tribunal concluded that the application of the challenged policy had not resulted in violation of any guaranteed rights of the Applicant. The Tribunal noted the fact that some retirees like the Applicant might face challenges because of the fact that an increasing number of medical specialists does not accept Medicare patients. The Tribunal noted the Bank's undertaking that it would review its policy of mandatory enrollment if and when "limitations on access to medical specialists become more pervasive". The Tribunal found that this undertaking addresses the Applicant's concerns and is to be taken seriously by the Bank.

Decision: The Application was dismissed on the merits. However, the Tribunal ordered the Bank to contribute to the Applicant's attorneys' fees in the amount of \$5,000 for the preliminary objections phase of proceedings, in which the Applicant had prevailed.