

Summary of CT v. IBRD, Decision No. 512 [2015]

The Applicant was found by the Office of Ethics and Business Conduct (EBC) to have (i) transmitted, via her World Bank Group (WBG) email address on her WBG assigned computer, emails which may be considered a disparagement of others; and (ii) transmitted to her manager, Ms. X, emails which were disparaging of, and which created a hostile and uncomfortable work environment for, Ms. X. The Applicant challenged the decision of the Vice President of Human Resources (HRVP) imposing the following disciplinary measures: 1) termination of the Applicant's employment; 2) ineligibility for future employment with the World Bank; and 3) indefinite placement of the disciplinary letter on the Applicant's personnel record.

The Tribunal found that the existence of the facts, whether they legally amounted to misconduct, and whether the sanctions imposed were provided for in the law of the Bank were not in dispute between the parties. The Applicant conceded that her conduct amounted to misconduct under the Staff Rules. Additionally, the sanctions imposed by the HRVP were contained in the Staff Rules.

The Tribunal held that the principal issue to be addressed was whether the sanctions imposed were proportionate to the misconduct. The Tribunal recalled that it has the "authority to determine whether a sanction imposed by the Bank upon a staff member is significantly disproportionate to the staff member's offense." *Gregorio*, [Decision No. 14] 1983, para. 47. In assessing the proportionality of the sanctions imposed, the Tribunal noted the mitigating factors contained in the EBC Final Report, the singularity of the case, the Applicant's position as a junior subordinate of Ms. X and the fact that the HRVP had not previously been faced with a case of this nature. The Tribunal considered that the following were relevant to an assessment of proportionality in the present case and should serve to mitigate the sanctions imposed: (a) the fact that this was the first instance of misconduct in an otherwise unblemished career of over nineteen years at the World Bank; (b) the fact that the Applicant showed remorse and took the initiative to apologize to Ms. X as soon as she became aware of the transmission of the email messages to Ms. X; and (c) the fact that the Applicant cooperated with the investigation.

The Tribunal then considered whether the requirements of due process were observed. The Tribunal noted that the Applicant contended that EBC denied her due process rights by failing to interview her proposed character witnesses. The Tribunal did not find any evidence of wrongdoing.

Decision:

- (1) The disciplinary sanctions imposed on the Applicant are rescinded.
- (2) The Bank shall reinstate the Applicant to a position similar to the one she was occupying at the time of the termination of her employment, subject to the condition that the Bank may impose any disciplinary measure, or a combination of disciplinary measures contained in Staff Rule 3.00, paragraph 10.06, short of termination. The duration of those disciplinary measures shall be within the discretion of the HRVP.
- (3) The Bank shall pay the Applicant's attorney's fees.