



World Bank Administrative Tribunal

2018

Decision No. 591

**DK (No. 2),
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

**World Bank Administrative Tribunal
Office of the Executive Secretary**

**DK (No. 2),
Applicant**

v.

**International Bank for Reconstruction and Development,
Respondent**

1. This judgment is rendered by the Tribunal in plenary session, with the participation of Judges Mónica Pinto (President), Andrew Burgess (Vice-President), Mahnoush H. Arsanjani (Vice-President), Abdul G. Koroma, Marielle Cohen-Branche, and Janice Bellace.

2. The Application was received on 7 December 2017. The Applicant was represented by Douglas C. Melcher, Attorney-at-Law. The Bank was represented by Ingo Burghardt, Chief Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 10 October 2018.

3. The Applicant is contesting (i) the termination of her Short Term Consultant (STC) appointment with the Transport and ICT Global Practice on 15 September 2015; (ii) the decision to restrict her access to the Bank's premises; and (iii) the decision to place a conditional hire flag in her personnel file.

FACTUAL BACKGROUND

4. The Applicant worked at the Bank from 13 August 1997 to 15 September 2015, first as a Long Term Consultant and, after 2006, as an STC under different contracts.

THE TERMINATION OF THE APPLICANT'S STC APPOINTMENT

5. In 2012, the Applicant received an offer for an STC appointment with the Office of the Vice President and Head of Network.

6. On 16 September 2013, the Applicant reported her former supervisor to the Office of Ethics and Business Conduct (EBC) for sexual harassment and retaliation. EBC conducted an investigation and in its Investigative Report of 17 April 2014 found insufficient evidence to substantiate the Applicant's allegations of sexual harassment. However, EBC found that the Applicant's former supervisor had committed misconduct for failing "to resolve a *de facto* conflict of interest that arose due to a sexual relationship that he had with [the Applicant]," for which disciplinary measures were imposed. The Tribunal upheld the disciplinary measures imposed against the former supervisor in *CR*, Decision No. 511 [2015].

7. On 25 August 2014, the Applicant received an offer for a new STC appointment with the Transport and ICT Global Practice for about 15 days from 26 August 2014 to 31 May 2015. According to the Bank, the Applicant's main assignment under this contract was to edit a final report on an ICT project (the Entrepreneurship Project Report). Mr. X was the Applicant's Task Team Leader (TTL) for this assignment. Subsequently, the Applicant's STC appointment was extended until 31 August 2015.

8. On 14 July 2015, the Applicant met with a Senior Program Officer, Transport and ICT Global Practice, to discuss a possible collaboration on a Data Project.

9. On the same date, the Senior Program Officer asked a consultant in the unit to "[...] share with [the Applicant] materials on [the Data Project] so we can explore collaboration with her on sourcing with [...] expertise and developing partnerships."

10. On 16 July 2015, the Applicant shared a draft text of her own terms of reference for her possible collaboration on the Data Project.

11. By email dated 25 August 2015, the Senior Program Officer requested a Team Assistant in the unit to extend the Applicant's STC appointment until 31 December 2015, "without adding days yet." The Bank asserts that the extension was made without prior consultation with the Applicant's TTL.

12. By email dated 4 September 2015, the Senior Program Officer informed the Applicant that “[he has not] yet made a decision about [their] collaboration and in any case will need to discuss with management and [the Applicant’s TTL] before going ahead. So please feel free to explore other options.”

13. On 15 September 2015, the Applicant’s STC appointment was terminated following a request made by her TTL. The next day the Applicant’s TTL emailed an Advisor, Transport and ICT Global Practice, expressing his displeasure with the extension of the Applicant’s appointment without his prior approval.

14. On 16 October 2015, the Applicant met with the Advisor, Transport and ICT Global Practice, who informed her about the termination of her STC appointment as of 15 September 2015. At the termination of her STC appointment, the Applicant was paid for four days of work.

15. On 19 October 2015, the Advisor and the Practice Manager, Transport and ICT Global Practice, sent a joint email to all ICT staff members regarding the “challenging budget situation, referencing hiring of consultants.” In that email, they stated that “[w]e have a challenging budget situation this year which requires that we pay extra attention to monitoring our spending and keeping our variable cost under tight control.” They further outlined five cost-saving steps including “[a]ctively manag[ing] variable costs by using staff instead of consultants.”

16. By email dated 23 October 2015 to the Advisor, Transport and ICT Global Practice, the Applicant promised to “do a final touch-up and submit [the Entrepreneurship Project Report] next week.” The Applicant did not submit the report as promised.

THE APPLICANT’S RESTRICTED ACCESS TO THE BANK’S PREMISES

17. After the Applicant’s employment ended, the Applicant continued to visit the Bank’s premises. The Bank claims that several staff members complained to the offices of Human Resources (HR) and Corporate Security about the Applicant’s behavior during her visits to

certain Bank offices. As a result, HR and Corporate Security decided to impose an access restriction on the Applicant.

18. By email dated 2 October 2015, the Corporate Security Chief informed the Applicant that her access to the Bank's premises had been restricted. The Corporate Security Chief explained that:

Some World Bank Group offices have conveyed to us that you often visit them uninvited and unannounced, which they sometimes find disruptive and discomforting. Consequently, we have decided that, as a former staff member with no ongoing business need to be present on Bank premises, you will need to obtain prior approval from Human Resources, Corporate Operations (HRDCO). Request for access should be made to [...] or [...] in writing, with 24-hour advance notice during normal business days and should include the reason for and location of your visit. Please note that visits will be limited to entry for business needs relevant to the World Bank Group and for the duration necessary for the particular meeting for which you seek access. Such access needs to be confirmed by HRDCO before you present yourself for access. Please note that not abiding by these arrangements could lead to a more stringent restriction to access.

You are welcome to provide an acknowledgment and response to the above, if any, by October 9, 2015.

19. The Applicant did not provide any comments by the deadline of 9 October 2015.

20. From October 2015 to early 2016, the Applicant made several requests to HRDCO to be authorized to enter the Bank's premises to attend meetings in connection with her cases before Peer Review Services (PRS) and Mediation Services. HRDCO enabled these visits.

21. On 6 November 2015, the Applicant wrote to the Vice President of Human Resources (HRVP) inquiring about the "reason, evidence, and process (if any) that HR followed in deciding to punish me with this sanction." She stated that "access restriction is one of the sanctions defined in the Staff Rules/Misconduct Policy & Procedures for the Bank to punish a staff member who is found through investigation to have committed a misconduct."

22. On 11 November 2015, the Lead HR Specialist, HRDCO, responded to the Applicant's email explaining that the restricted access was "not a sanction but a reasonable exercise of the Bank's discretion to control access to its premises which was promoted in your case by the reasons provided in the notification email." The Lead HR Specialist, HRDCO, added that, in case the Applicant had a legitimate need to come to the Bank, his office would consider her request and try to accommodate her.

23. By emails dated 12 and 25 November 2015 to the Lead HR Specialist, HRDCO, the Applicant reiterated her request for clarification on the access restriction. In the email of 25 November 2015, she stressed that the access restriction "is not only barring me from entering the Bank buildings but also forcefully preventing me from getting a new assignment in the Bank [...]."

24. On 25 November 2015, the Applicant requested Mediation Services to amicably resolve the termination of her STC appointment and her access restriction.

25. By email dated 18 December 2015 to the Lead HR Specialist, HRDCO, the Applicant stated that:

In my case, there was no process whatsoever, no investigation, no reason/evidence given, no prior discussion, not even a notice, before the sanction that was imposed overnight on/from October 2nd. This is a clear violation of the Staff Rules and the Principles of Staff Employment which also provide that no staff member will be sanctioned or punished without a process or evidence of having engaged in a misconduct.

[...]

Very different from what you wrote, this access restriction has completely blocked any possibility of my getting a new assignment in the Bank. As a matter of fact, when I requested your approval to visit the Bank for a meeting with a business unit manager, with a 24-hour prior approval as your *[sic]* required, you did not give an approval. That opportunity fell apart as the manager was scared away.

26. On the same date, the Lead HR Specialist, HRDCO, responded that the access restriction “does not prevent you from getting a new assignment in the Bank.” He also informed the Applicant that he had already provided the requested clarifications and had nothing else to add.
27. On 13 January 2016, the Applicant made a second request for mediation to resolve the issues regarding the termination of her STC appointment.
28. On 4 April 2016, the mediation process ended without success.

THE PLACEMENT OF A CONDITIONAL HIRE FLAG IN THE APPLICANT’S PERSONNEL FILE

29. By email dated 16 January 2015 to the Lead HR Specialist, HRDCO, the Applicant inquired whether a “no-hire” flag had been placed in her personnel file. The Applicant noted that:

As discussed in the meeting, in the last many months, I have not been getting any work, not even from my current unit I have [a] contract with last August. I am really puzzled about this weird employment situation I have been in, which I never experienced before while working in the Bank in the last 17 years. It is really weird because it happened after my reporting of the misconduct committed by my former manager [...] and after my following complaints before the PRS as the victim of the misconduct.

My current no-work employment with the Bank is just like “unpaid administrative leave” – a punishment in every sense that I do not deserve. Discussing this hard situation, I specifically asked you in our January 8 meeting if there is something added to my personnel file that prevents managers from offering me work. You told me there is not. But you also mentioned my efforts, many months earlier, to get an opportunity to speak with [the Bank’s President] as an issue. I wonder if you meant that as the reason why I have been put into this current situation like unofficially-imposed unpaid administrative leave. May I ask you for clarification of what you told me?

As I explained in our meeting, with no work given in my current unit, I met other managers to try to get other assignment[s]. But, even those (out of about 10 managers I had met with during the period) who showed great interest in giving me work soon backed away one after another, in a strange way, for some reason that was unexplained to me [...].

[...] I managed to contract with GTIDR [the Transport and ICT Global Practice], my current unit in August, but then found myself in this weird situation of no-work employment with the Bank where I still have a contract but with no work given [...].

30. On 29 September 2015, HR placed a conditional hire flag in the Applicant's personnel file. The Bank contends that this flag did not impose a "no-hire" restriction, but that it only contained a note instructing "anyone receiving inquiries about Applicant to contact HRDCO." The Bank also contends that Corporate Security was further instructed to inform the Applicant of her access restriction and the placement of the conditional hire flag in her personnel file.

31. On 2 October 2015, the Corporate Security Chief informed the Applicant that her access to the Bank's premises had been restricted. This email did not refer to the conditional hire flag placed in the Applicant's personnel file.

32. The Applicant claims that the Lead HR Specialist, HRDCO, informed her in February 2016, during the mediation process, that a conditional hire flag had been placed in her personnel file.

33. On 20 June 2016, the Applicant filed a Request for Review with PRS in which she challenged the termination of her STC appointment, her restricted access to the Bank's premises, and the placement of a "no-hire" flag in her personnel file.

34. In December 2016, PRS decided to split the Applicant's claims into two cases. In Request for Review No. 353(A), the PRS Panel addressed the termination of the Applicant's STC appointment, while the Applicant's restricted access and the placement of the conditional hire flag were part of Request for Review No. 353(B).

35. On 28 June 2017, the PRS Panel issued its report in Request for Review No. 353(A) and found that "management did not act consistently with [the Applicant's] contract of employment and terms of appointment in terminating her STC appointment." More specifically, the Panel found that "management did not follow a proper process under the Staff Rules, the LOA [Letter

of Appointment] and the Principles of Staff Employment as it failed to provide advance notice to [the Applicant] about the termination decision.” The Panel therefore recommended that the Bank compensate the Applicant in the amount of “11 (eleven) days of her daily rate of her former STC appointment.”

36. On 11 July 2017, the Vice President, Sustainable Development, accepted the PRS Panel’s recommendation.

37. On 29 June 2017, the PRS Panel issued its report in Request for Review No. 353(B) and found that “management based its decisions to restrict [the Applicant’s] access to the Bank’s premises and place a conditional hire flag in her personnel file on reasonable and observable basis.” More specifically, the Panel concluded that “management followed a proper process in making the access restriction decision and did not act in a retaliatory manner or with bad faith.” With regard to the conditional hire flag, the Panel found that management “did not act consistently with the [Applicant’s] former contract of employment and terms of appointment” and “did not follow a proper process as it failed to provide [the Applicant] with written notice of the flag and the opportunity to reply to the decision.” The Panel therefore recommended that “management provide [the Applicant] with written notice of the placement of the flag including the reason/s for the decision and an opportunity to respond.”

38. On 5 July 2017, the HRVP accepted the PRS Panel’s recommendation.

39. By email dated 11 July 2017, the Manager, HRDCO, provided the Applicant with written notice of the placement of the conditional hire flag in her personnel file. The full text of the email stated that:

Further to the PRS No. 353 (B) Recommendation and Decision, I am writing to inform [you] that a conditional hire flag has been placed in your records.

As the PRS Panel noted, and as included in management’s response to your claims, the conditional hire flag was meant to enable HRDCO to take appropriate measures to facilitate your access to the Bank’s premises in case you were rehired by any unit of the Bank.

40. In her Application before the Tribunal, the Applicant is contesting (i) the termination of her STC appointment with the Transport and ICT Global Practice on 15 September 2015; (ii) the decision to restrict her access to the Bank's premises; and (iii) the decision to place a conditional hire flag in her personnel file.

41. The Applicant seeks the following relief: (i) the reinstatement of her employment contract; (ii) the rescission of the access restriction; (iii) the removal of the conditional hire flag from her personnel file; (iv) compensation for lost wages, lost career opportunities, emotional distress, and harm to her professional and personal reputation in an amount of "no less than \$1,000,000.00"; (v) damages for "the egregious violation of [her] staff rights and to deter future wrongdoing by the Bank"; (vi) a letter of apology by the Bank; and alternatively (vii) "[i]n the event that the Bank refuses to perform any of the above-invoked obligations [...] compensation in the amount of no less than \$3,000,000.00."

SUMMARY OF THE MAIN CONTENTIONS OF THE PARTIES

THE TERMINATION OF THE APPLICANT'S STC APPOINTMENT

The Applicant's Contention

The Bank's decision to terminate her STC appointment did not have a proper basis and did not follow due process

42. The Applicant disputes the reasons invoked by the Bank for the termination of her STC appointment. She claims that the Bank's contention that she failed to complete a work assignment is a "colorable basis" to justify its failure to provide notice of termination. She asserts that, if she had been timely informed by her TTL that she was performing poorly, she would have taken "corrective action to deliver whatever product was needed at whatever quality level was expected." She denies having performed poorly, claiming that her performance record for 18 years at the Bank was "unblemished."

43. The Applicant further claims that the decision to terminate her STC appointment was made in retaliation for reporting her former supervisor's sexual misconduct to EBC. She contends that the evidence in the case is sufficient to "reasonably infer" that a causal link exists between her reporting and the termination of her STC appointment. She submits in this regard that HR knew that she had engaged in protected activities and alleges that "an inference can be made that [HR] was the decision-maker" in the termination of her appointment.

44. The Applicant submits that, pursuant to her Letter of Appointment, the Staff Rules, and Principle 7.1 of the Principles of Staff Employment, the Bank had the obligation to notify her in writing of the termination of her STC appointment and the reasons for it. She states that her STC appointment was terminated on 15 September 2015 but notice of termination was only provided a month later, on 16 October 2015. The Applicant claims that, by failing to notify her in advance of the termination of her STC appointment, the Bank has infringed on her due process rights to be given notice and an opportunity to respond. In supporting her claims, the Applicant refers to the conclusions of the PRS Panel in Request for Review No. 353(A).

45. Regarding the issue of compensation, the Applicant submits that the Bank has not provided an appropriate remedy for the violation of her due process rights and requests that the Tribunal compensate her for the extension of her contract through 31 December 2015, that she was unable to complete. She states that the remedy recommended by PRS and accepted by the Bank "fails to consider what would have happened if I had been given appropriate notice."

The Bank's Response

The decision to end the Applicant's STC contract was made for valid business reasons

46. The Bank asserts that there were a number of valid business reasons to terminate the Applicant's STC appointment. The Bank submits that, although the Applicant had an active 15-day contract until 31 December 2015, "she never really began working under that contract" because no work plan or terms of reference had been finalized. The Bank states in this regard that the Senior Program Officer informed the Applicant that no final decision had been made about her work program and advised her "to explore other options." The Bank further submits

that the team responsible for the Applicant's contract faced budget restrictions at the time and had to reduce the number of consultants in the unit. Since the Applicant had not yet agreed on a work program, the Applicant's TTL decided that her contract should be terminated before any work was assigned to her "in order to save on budget."

47. The Bank denies that retaliatory motives were behind the decision to terminate the Applicant's STC contract. While conceding that the reasons for the termination of the Applicant's STC contract were not clearly communicated to the Applicant, the Bank asserts that this oversight "does not support Applicant's inference that there was any conspiracy against her, or any retaliation." Instead, the Bank explains that the budgetary restrictions in the unit were unknown to the Senior Program Officer who hired the Applicant. The Bank maintains that (i) nobody in the hiring unit knew about the Applicant's reporting to EBC; (ii) there is no evidence that reporting to EBC was in any way related to the decision to terminate the Applicant's contract; and (iii) the Applicant's claims of retaliation are undermined by the fact that she was offered several STC contracts after 2013, the date on which she reported her former supervisor to EBC.

48. The Bank asserts that it has paid the Applicant the amount of compensation recommended by the PRS Panel for its failure to provide timely notice of termination, even though the Applicant has refused to accept the payment.

THE APPLICANT'S RESTRICTED ACCESS TO THE BANK'S PREMISES

The Applicant's Contention

The Bank's decision to restrict the Applicant's access to the Bank's premises did not have a proper basis and violated her due process rights

49. The Applicant claims that the decision to restrict her access to the Bank's premises did not have a proper basis. She refers to a security report prepared by Corporate Security, which was produced by the Bank during these proceedings. According to the Applicant, this report, which allegedly provides the basis for the restricted access, is a "sham" because it contains

unproven allegations that she engaged in aggressive and disruptive behavior during her visits to certain Bank offices.

50. The Applicant alleges that the restricted access was imposed in retaliation for reporting her former supervisor's sexual misconduct to EBC. She argues that HR knew that she had engaged in protected activities and that the evidence in the case is sufficient to "reasonably infer" that a causal link exists between her reporting and the decision to restrict her access to the Bank's premises. She asserts that an inference can be drawn from the fact that her restricted access and the conditional hire flag were imposed in connection with the "sudden" termination of her appointment, thus suggesting that the Bank's actions had the "clear common purpose [...] to force [her] out of the Bank and forever prevent [her] from returning."

51. The Applicant contends that the Bank violated her due process rights in restricting her access to the Bank's premises. The Applicant explains that the Bank based its decision on a security report that accused her of having "engaged in aggressive or disruptive behavior." However, the Bank failed to inform her of those "alleged instances of inappropriate behavior" and to disclose the dates of those incidents when she requested them. She argues that the Bank's action "strongly suggests a bad faith motive."

52. The Applicant contends that, by not providing her with a copy of the security report, the Bank deprived her of her right to be "inform[ed] about the contents of the security report" and prevented her from exercising her right to defend herself. She rejects the Bank's argument that the information contained in the security report could not be shared with her because of its confidential nature. She contends that such argument "makes no sense" because there is no legitimate reason to deprive her of a copy of the security report. She relies on the Tribunal's holding in *Yoon* (Nos. 13, 14, 16, 17, and 18), Decision No. 447 [2011] in support of her contentions.

The Bank's Response

The Bank acted reasonably in deciding to restrict the Applicant's access to the Bank's premises

53. The Bank claims that its decision to restrict the Applicant's access to the Bank's premises was a reasonable exercise of its duty to protect the safety of its staff and premises. The Bank asserts that the security report prepared by Corporate Security provides the basis for the access restriction as it shows that the decision was made after several staff members complained of the Applicant's behavior during her visits to the Bank's offices. The Bank states that after receiving these complaints it proceeded "conservatively" in deciding not to bar the Applicant from entry. Instead, the Bank required the Applicant to schedule her visits ahead of time.

54. The Bank asserts that access to its premises is not unrestricted and that any visitor who is not an employee of the Bank, like the Applicant, must meet a number of requirements to be granted access to the Bank's premises: (i) visitors are required to undergo a security check; (ii) visitors must show identification before being allowed to enter the building; and (iii) visitors must have a staff member sponsoring a visitor pass for them.

55. The Bank asserts that it notified the Applicant of the access restriction and afforded her the opportunity to reply. It states that, by email dated 2 October 2015, the Corporate Security Chief notified the Applicant of the imposition of the access restriction and invited her to provide comments by 9 October 2015. The Bank notes that the Applicant did not avail herself of this opportunity.

THE PLACEMENT OF A CONDITIONAL HIRE FLAG IN THE APPLICANT'S PERSONNEL FILE

The Applicant's Contention

The Bank's decision to place a conditional hire flag in her personnel file did not have an "acceptable" basis and violated the Applicant's due process rights

56. The Applicant contends that the Bank has failed to provide legitimate reasons for its decision to place a conditional hire flag in her personnel file. She states that, because the Bank

refused to respond to a PRS request to submit the official reasons for its decision, and the date on which the conditional hire flag was entered into the Applicant's personnel file, the PRS Panel should have inferred from the Bank's actions that there were no legitimate reasons for the placement of the flag. She also claims that the PRS Panel should have disregarded the subsequent explanations given by the Responding Manager that the flag was placed to enable HRDCO to take appropriate measures to facilitate her access to the Bank in case she was rehired.

57. The Applicant contends that the decision to place the flag in her file was made in retaliation for reporting her former supervisor's sexual misconduct to EBC. She asserts that HR knew that she had engaged in protected activities and that the evidence is sufficient to "reasonably infer" that a causal link exists. She also asserts that a causal link has been established because, immediately after reporting the sexual misconduct, she "noticed a pattern of TTLs and managers avoiding me [...] after expressing an initial interest in giving me work, the TTL or manager suddenly began avoiding me and completely stopped communicating with me."

58. The Applicant further claims that, by failing to provide official notice of the placement of the flag and the reasons for it, the Bank has violated her due process rights to be given written notice and the opportunity to reply. In this regard, she relies on the Tribunal's findings in *Dambita*, Decision No. 243 [2001], and *Q*, Decision No. 370 [2007]. She contends that the violation of her rights persisted for as long as the Bank refused to acknowledge the placement of the flag in her personnel file. She states that she has not been provided with the official reasons for and the date of the placement of the flag.

59. The Applicant argues that her right to be given notice was further infringed as HR refused to provide information, during the PRS proceedings, about the placement of the flag and the reasons for it. She also argues that, in failing to provide her with a copy of the security report, the Bank has deprived her of a "meaningful opportunity to respond" to the allegations that she had engaged in "aggressive or disruptive behavior."

60. The Applicant finds the remedy recommended by the PRS Panel, and accepted by the HRVP, that official notice be given to the Applicant, "completely inadequate." According to the

Applicant, such notice “if given now, would come far too late.” She asserts that the conditional hire flag, having remained in her personnel file for years, “has had an injurious effect on [her] throughout that time period [...]. Allowing [her] to contest it now does nothing to remedy those injuries.” The Applicant alleges that, contrary to the Bank’s assertion, the conditional hire flag sought to prevent the Applicant from obtaining employment opportunities with the Bank. She therefore claims compensation in the form of a “significant monetary award.”

The Bank’s Response

The Bank acted reasonably in deciding to place a conditional hire flag in the Applicant’s personnel file for security reasons

61. The Bank states that the conditional hire flag “[was] part of the same corporate decision to restrict [the Applicant’s] access in an effort to mitigate any security risk Applicant might pose to Bank staff.” The Bank claims that its decision to place a conditional hire flag in the Applicant’s personnel file was based on the need “to ensure that she was not inadvertently hired and provided with a staff ID that would enable her unfettered access to Respondent’s offices without knowledge of Corporate Security.” The Bank explains that such a flag is necessary in large institutions like the Bank “especially since STCs are hired decentrally, by individual business units, and not centrally through HR.”

62. The Bank maintains that the note placed in the Applicant’s personnel file, stating “for additional information, please contact HRDCO[,]” had the intention of alerting HR Operations when it sought to enter an STC contract, “to contact HRDCO first.” It denies that the conditional hire flag had the effect of preventing the Applicant from obtaining employment with the Bank. In this regard, while admitting that it did not provide the Applicant with written notice of the placement of the conditional hire flag, the Bank submits that it did not do so because the Applicant “did not seek employment at the World Bank since her contract ended in 2015.”

63. The Bank states that the conditional hire flag has had “no actual impact on Applicant since it was added to her file.”

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

THE TERMINATION OF THE APPLICANT'S STC APPOINTMENT

Whether the Bank's decision to terminate the Applicant's STC appointment had a reasonable and observable basis

64. The Bank's decision to end an appointment "however discretionary, is not absolute" and "must be reached fairly and not in an arbitrary manner." *See Barnes*, Decision No. 176 [1997], para. 10. *See also CS*, Decision No. 513 [2015], para. 70. Furthermore, the Tribunal held in *AK*, Decision No. 408 [2009], para. 41, that:

Decisions that are arbitrary, discriminatory, improperly motivated, carried out in violation of a fair and reasonable procedure, or which lack a reasonable and observable basis, constitute an abuse of discretion, and therefore a violation of a staff member's contract of employment or terms of appointment.

65. Staff Rule 7.01, paragraph 4.02, provides that:

Extended Term Consultant, Extended Term Temporary, Short Term Consultant, Short Term Temporary, and Special Assignment Appointments may be ended by the Staff Member's Manager prior to expiration on grounds that the employment is no longer required, with such advance notice to the Staff Member as the Manager determines consistent with the Staff Member's letter of appointment. A Staff Member separated under this paragraph is not entitled to severance payments.

66. The Applicant's letter of appointment dated 25 August 2014, which governed her employment with the Bank "for about 15 days from August 26, 2014 to May 31, 2015," explicitly states that, "[i]n the event the World Bank finds it necessary to cancel the assignment or to shorten its duration, the World Bank reserves the right to adjust the terms of the assignment as necessary. Your appointment will terminate accordingly unless it is extended or a new appointment is made."

67. The Bank asserts that there were a number of valid business reasons to terminate the Applicant's STC appointment. The Bank submits that, although the Applicant had an active 15-day contract, "she never really began working under that contract" because no work plan or terms of reference had been finalized. The Bank states in this regard that the Senior Program Officer informed the Applicant that no final decision had been made about her work program and advised her "to explore other options." Another reason invoked by the Bank is that the team responsible for the Applicant's contract faced budget restrictions at the time and had to reduce the number of consultants in the unit. Since the Applicant had not yet agreed on a work program, the Applicant's TTL decided that her contract should be terminated before the assignment of any work "in order to save on budget."

68. The Tribunal observes that, at the termination of the Applicant's appointment, the Applicant had not been assigned any work. Although her contract had been extended until 31 December 2015, pending a final decision for a possible collaboration on the Data Project, no work program had been designed for this purpose and no working days had been added to her contract. This was clearly evidenced in an email dated 4 September 2015, in which the Senior Program Officer informed the Applicant that "[he has not] yet made a decision about our collaboration." In that email, the Senior Program Officer also informed the Applicant that before "going ahead" with this assignment, he still "need[ed] to discuss with management and [the Applicant's TTL]." Simultaneously, the record shows that the Transport and ICT Global Practice was facing a "challenging budget situation" and that the Practice Manager had recommended that its managers "[a]ctively manage variable costs by using staff instead of consultants." The Tribunal is persuaded by the Bank's contention that it terminated the Applicant's appointment before the assignment of any work "in order to save on budget."

69. The Applicant also disputes the contention that she failed to complete a work assignment. She claims that this reason, given by the Responding Manager before PRS, is a "colorable basis" to justify its failure to provide notice of termination. She claims that she would have taken "corrective action to deliver whatever product was needed at whatever quality level was expected" had she been timely informed of the reasons for the termination of her appointment.

She denies having performed poorly, claiming that her performance record for 18 years at the Bank was “unblemished.”

70. The record shows that the Applicant’s TTL was not fully satisfied with the Applicant’s performance. Under the Applicant’s initial appointment of 25 August 2014, which was first extended until 31 August 2015, the Applicant’s only assignment was to edit the Entrepreneurship Project Report. By then, however, her TTL considered that she had failed “in making any progress in completing the work assigned to her.” On 16 October 2015, when the Advisor, Transport and ICT Global Practice, informed the Applicant of the termination of her appointment, the Applicant admitted that the Entrepreneurship Project Report was incomplete. On 23 October 2015, she wrote to the Advisor, Transport and ICT Global Practice, and promised to submit the report a week later. There is no record that the Applicant ever completed this assignment.

71. The Tribunal is satisfied that the reasons given by the Bank to terminate the Applicant’s STC appointment are supported by the record.

Whether the Bank followed due process in informing the Applicant of the termination of her STC appointment

72. Principle 7.1(b) of the Principles of Staff Employment states that “[s]taff members separated at the initiative of the Organizations have the right to be notified in writing of the decision and the reason for it,” which the Tribunal recently reaffirmed in *DK*, Decision No. 552 [2017], para. 151.

73. Pursuant to Staff Rule 7.01, paragraph 4.02, STC appointments may be ended prior to expiration “with such advance notice to the Staff Member as the Manager determines consistent with the Staff Member’s letter of appointment.”

74. The Applicant's Letter of Appointment dated 25 August 2014 stated that the Bank "will make every effort to give you as much notice as possible of any such change to your appointment [...]."

75. The Tribunal has held that the Bank must give "an honest reason" in ending an appointment. In *Skandera*, Decision No. 2 [1981], para. 28, the Tribunal observed:

[N]otice of termination should communicate to the affected staff member the true reasons for the Bank's decision. It is in the interest of the Bank that the employment of qualified employees not be terminated on the basis of inadequate facts or ill-founded justifications, and one way to assure this is to furnish the staff member at the time of termination with a specific and true assessment which will provide a fair opportunity to the individual to dispute, and possibly to seek rectification of the decision of the Bank. The prompt communication of reasons for termination will also facilitate the preparation and presentation of appeals and other remedies provided in the Bank's dispute-resolution procedure.

76. The Applicant submits that, by failing to notify her in advance of the termination of her STC appointment, and the reasons for it, the Bank has infringed her due process rights to be given notice and an opportunity to respond. The Bank has not disputed the fact that it failed to provide notice of the termination of the Applicant's STC appointment. However, it states that it has paid the Applicant the amount of compensation recommended by the PRS Panel for its failure.

77. The Tribunal observes that the Applicant's TTL claimed, before PRS, that he had informed the Applicant that he did not intend to extend her contract beyond 31 August 2015 because he was not "happy" with the quality of her work on the Entrepreneurship Project Report. There is, however, nothing on record that supports this assertion. Instead, the record shows that the Applicant's TTL considered that he was not obligated to inform the Applicant regarding the end of her employment with the Bank. As he noted in an email sent to the Advisor, Transport and ICT Global Practice, "by the end of the extended hiring, [...] I thought that all automatically ended with her because she did not submit any report to me and hiring days expired." As further shown by the record, the Applicant's TTL terminated the Applicant's STC appointment on 15 September 2015 without notifying her of his decision.

78. The Tribunal finds that, contrary to its obligations under the Staff Rules, the Principles of Staff Employment, and the Applicant's Letter of Appointment, the Bank failed to "make every effort" to provide the Applicant with written notice of the termination of her STC appointment and the reasons for it. It was on 16 October 2015, a month after the decision was implemented, that the Applicant was informed that her STC appointment had been terminated and that her unsatisfactory work on the Entrepreneurship Project Report constituted the reason for it. The Tribunal notes that the Bank only contended that the Global Practice's budget restrictions constituted another basis for the termination of the contract during the PRS proceedings.

79. In light of the above, the Tribunal finds that the Bank has infringed the Applicant's rights to be notified in writing of the decision to terminate her STC appointment and the reasons for it, for which compensation is warranted.

THE APPLICANT'S RESTRICTED ACCESS TO THE BANK'S PREMISES

Whether the Bank has provided a proper basis for the restricted access

80. The Tribunal's review of decisions that restrict access to the Bank's premises, as for any discretionary decision, is limited to determining "whether it constitutes an abuse of discretion, being arbitrary, discriminatory, improperly motivated or carried out in violation of a fair and reasonable procedure." *See de Raet*, Decision No. 85 [1989], para. 56.

81. The Tribunal "will not substitute its assessment of the situation for that of the Bank, nor overturn the exclusion decision absent an abuse of discretion, meaning where the decision is 'arbitrary or unreasonable, or is in violation of the staff rules.' (*Mwake*, Decision No. 318 [2004], para. 35.) In matters involving Bank security, this discretion is broad indeed." *See Q*, para. 39. *See also Yoon (Nos. 13, 14, 16, 17, and 18)*, para. 84; *CR (No. 2)*, Decision No. 582 [2018], para. 58.

82. In *CR (No. 2)*, para. 65, the Tribunal observed:

[W]hereas a former staff member must have a legitimate justification to access the Bank's premises, his or her access to the Bank's premises is not always guaranteed. The HRVP can still deny entry to the Bank's premises even when a legitimate basis has been shown. As held by the Tribunal in *Mwake*, para. 35, "the HRVP's discretion in Bank's security, including access to the Bank's premises, is broad."

83. The Bank claims that its decision to restrict the Applicant's access to the Bank's premises was a reasonable exercise of its duty to protect the safety of its staff and premises. The Bank asserts that the security report prepared by Corporate Security provides the basis for the access restriction as it shows that the decision was made after several staff members complained of the Applicant's behavior during her visits to certain Bank offices. For her part, the Applicant submits that the security report is a "sham" because it contains unproven allegations that she engaged in aggressive and disruptive behavior during her visits to the Bank.

84. The Tribunal has examined the Corporate Security report *in camera* and finds that it lends support to the Bank's contention that several staff members complained of the Applicant's behavior during her visits to certain Bank offices. The Tribunal observes that the first incident documented in the Corporate Security report dates back to 2014. At the time, the Applicant had made multiple attempts to approach the Bank's President without a prior appointment. According to Corporate Security, the Applicant had evaded the security measures put in place to protect the safety and security of the Office of the President. The report also shows that, in addition to these incidents, Corporate Security and HRDCO held consultations regarding the Applicant's actions, which they found "inappropriate and [to] have caused disruption to the work place." Another Bank unit considered that there were reasons to believe that the Applicant would "become more aggressive in accessing the President or others in the Bank's IJS [Internal Justice Services] system."

85. Other Bank units complained of the Applicant's behavior thereafter. A unit informed HRDCO that it was "increasingly uncomfortable interacting with [the Applicant]" because she had become "increasingly aggressive and disruptive." There were also complaints of the Applicant's "unpredictable and inconsistent" behavior and the fact that she "has been disruptive

and sometimes rude.” Staff from the Office of the President continued to express their discomfort with the Applicant’s insistence on meeting the Bank’s President.

86. Principle 2.1(b) of the Principles of Staff Employment prescribes the Bank’s obligation “to make all reasonable efforts to ensure appropriate protection and safety for staff members in the performance of their duties.”

87. As the Tribunal held in *Q*, para. 37, “[m]aintaining security is a fundamental duty of the Bank to its staff, and to the integrity of the institution, and access to Bank premises is necessarily influenced by security considerations.” The Tribunal also held in *B*, Decision No. 247 [2001], para. 30, that:

[I]t would be a reasonable security measure in certain circumstances to deny or restrict access of a staff member to the Bank’s buildings or to a specific office, or to condition the access to the availability of an escort. The Tribunal has held that access to the Bank’s buildings is an issue connected with Bank security. (*Dambita*, Decision No. 243 [2001], para. 27.) The decision by the Acting Vice President of Human Resources in this case is not objectionable [...].

88. The Tribunal notes that, in matters involving the Bank’s security, the Bank’s discretion is broad. Having carefully reviewed the Corporate Security report, which documents in detail the Applicant’s behavior during her visits to certain Bank offices, the Tribunal is convinced that the Bank had a reasonable and observable basis for restricting the Applicant’s access to the Bank’s premises as the appropriate security measure in response to the Applicant’s actions. The Tribunal finds, therefore, that the Applicant has failed to demonstrate that the Bank abused its discretion in this regard.

Whether the Bank followed due process in imposing the restricted access

89. The Applicant asserts that she was not provided with a copy of the security report and therefore deprived of her right to be “inform[ed] about the contents of the security report” and prevented from exercising her right to defend herself. The Bank asserts that it notified the Applicant of the access restriction and afforded her the opportunity to reply. It states that, by

email dated 2 October 2015, the Corporate Security Chief notified the Applicant of the access restriction and invited her to provide comments. The Bank notes that the Applicant did not avail herself of this opportunity.

90. The Tribunal has consistently held that the placement of any flags must follow the basic elements of due process. In *Dambita*, para. 26, the Tribunal emphasized that:

[T]he placement of any flags, for whatever purpose, must follow the basic elements of due process, including, specifically, written notification and the right to reply. This applies to present and former staff. The Respondent thus failed to comply with due process in placing the no-access flags without written notification to the Applicant, and without her having been given a right to reply.

91. In *Q* (*No. 2*), Decision No. 438 [2010], para. 35, the Tribunal observed:

[E]ven though the due process standards set out in *Dambita* and in *Q* are similar, the circumstances in those cases are significantly different. In *Dambita*, the central issue was misconduct. The Bank had concluded that the applicant had been involved in misconduct, and barred her from employment as a result. In contrast, in *Q*, the initial decision to place flags in the applicant's personnel files was based on issues relating to Bank security, and a no-hire and no-access flag was placed in the applicant's file. There was no question of misconduct, and the decision to place flags was not the result of disciplinary action. While the Tribunal deemed the Bank's action in response to the applicant's behavior to have been punitive in nature, the question of misconduct under the Bank's Staff Rules did not arise. It will also be recalled that in *Dambita* (at para. 27) the Tribunal noted the distinction between the imposition of flags as disciplinary action and the imposition of flags for security purposes. Thus different considerations apply depending on whether the matter is one of misconduct or of security; in *Dambita* the Tribunal determined whether the disciplinary action was justified, whereas in *Q* it only decided whether the Bank abused its discretion in placing flags in the Applicant's personnel files as a matter of security.

92. The Tribunal will examine whether "the basic elements of due process," namely, written notification and the right to reply, have been met in the present case. The Tribunal observes that on 2 October 2015 the Corporate Security Chief notified the Applicant of his decision to restrict her access to the Bank's premises and informed her that staff from different Bank offices had complained that her visits were "disruptive" and "discomforting." He explained that going forward the Applicant would need to obtain prior approval from HRDCO. He also invited the

Applicant to respond to this notification by 9 October 2015. The Applicant did not avail herself of this opportunity.

93. The record indicates that an email dated 6 November 2015, to the HRVP, was the first time the Applicant inquired about the “reason, evidence, and process (if any) that HR followed in deciding to punish me with this sanction.” In response to this email, the Lead HR Specialist, HRDCO, explained that the Applicant’s restricted access was “not a sanction but a reasonable exercise of the Bank’s discretion to control access to its premises which was promoted in your case by the reasons provided in the notification email.”

94. The record further indicates that on 12 and 25 November, and 18 December 2015, the Applicant reiterated her request to know about the basis, evidence, and process followed in deciding the access restriction. In response, the Lead HR Specialist, HRDCO, consistently stated that the Applicant had been provided with the reasons for the access restriction in the email of 2 October 2015. He also reiterated that the restricted access did not constitute a “sanction” but a “reasonable exercise of the Bank’s discretion to control access to its premises.”

95. As shown above, in restricting the Applicant’s access to the Bank’s premises, the Bank provided her with written notice and repeatedly informed her of the basis for its decision. The Applicant also had several opportunities to convey her views on her access restriction.

96. The Applicant also claims that, by not receiving a copy of the security report, she has been deprived of a meaningful opportunity to defend herself. She therefore requests that a copy of the report be shared with her. The Bank submits that the security report should not be shared with the Applicant because it is “confidential and contains information from and about current staff members.” The Bank states that, while the Applicant has due process rights to be notified about the restricted access, she does not have a right to know the identity of the staff who reported to Corporate Security in the belief that their information would be kept confidential. The Tribunal is persuaded by the Bank’s contention that the identity of the reporting staff must be kept confidential.

97. The Tribunal is of the view that the Applicant's right to reply was not infringed by the non-provision of a copy of the security report. As shown above, the Applicant was informed on 2 October 2015 of the reasons for the access restriction, namely that several Bank units had complained that her visits were "disruptive" and "discomforting." The Tribunal finds that the Applicant was provided with sufficient information to exercise her right to defend herself.

98. In light of the foregoing, the Tribunal finds that, in restricting the Applicant's access to the Bank's premises, the Bank did not infringe on the Applicant's due process rights to be given written notification and the opportunity to reply.

THE PLACEMENT OF A CONDITIONAL HIRE FLAG IN THE APPLICANT'S PERSONNEL FILE

99. The Applicant contends that the Bank has failed to provide legitimate reasons for its decision to place a conditional hire flag in her personnel file. For its part, the Bank maintains that its decision was based on the need "to ensure that she was not inadvertently hired and provided with a staff ID that would enable her unfettered access to Respondent's offices without knowledge of Corporate Security." The Bank denies that the conditional hire flag in the Applicant's personnel file had the effect of preventing her from obtaining employment with the Bank.

100. The Tribunal held in *Q*, para. 41, that "[t]he Bank does not have discretion to withhold information concerning flags from a current or former staff member, as doing so denies the staff member the right to contest the flag placement." It further held, in para. 50, that:

The Bank is not precluded from entering and maintaining flags as a preliminary safeguard pending due process, nor must it condition its decisions and actions on the responses of a potentially aggrieved, aggressive or unstable current or former staff member who has been excluded. To avoid an abuse of discretion, the Bank need only engage in a good-faith effort to garner the staff member's informed response to the allegations made against him or her, for the purpose of providing an objective decision-maker with sufficient evidence to be able to determine the true nature of the facts and reach a well-founded decision as to whether the flags are to be maintained or removed pursuant to Bank rules and policy. (*See N*, Decision No. 356 [2006], para. 19, citing Principle 2.1 of the Principles of Staff Employment, which requires fairness, impartiality and proper process by the

Bank. *See also G (No. 2)*, Decision No. 361 [2007], para. 26, citing *Rendall-Speranza*, Decision No. 197 [1998], para. 57.)

101. The Tribunal held in *Yoon (Nos. 13, 14, 16, 17, and 18)*, para. 82, that:

With regard to the “no hire” flag, the Tribunal notes that it was placed on the Applicant’s record pursuant to the decision to terminate her employment for unsatisfactory performance. Staff Rule 4.01, paragraph 8.05, provides that “a former staff member whose employment terminated [...] for unsatisfactory performance under Rule 7.01, section 11, may not be reappointed.” The “no hire” flag merely gave effect to the terms of the Applicant’s separation from the Bank.

102. The record shows that on 29 September 2015 HR placed a conditional hire flag in the Applicant’s personnel file. On 2 October 2015, the Corporate Security Chief informed the Applicant of the imposition of the restricted access but made no reference to the placement of the conditional hire flag, although the Bank claims that the conditional hire flag “[was] part of the same corporate decision to restrict [the Applicant’s] access in an effort to mitigate any security risk Applicant might pose to Bank staff.”

103. In the Tribunal’s view, the fact that the conditional hire flag was placed in the Applicant’s personnel file on 29 September 2015, three days before the Applicant was informed of her access restriction on 2 October 2015, strongly suggests that both decisions were linked and made conjointly in response to the security incidents in which the Applicant had been previously involved.

104. The Tribunal finds, however, that the Bank failed to inform the Applicant of the placement of this flag, not only at the time of its imposition but also during the PRS proceedings. As shown by the record, the Bank refused to comply with a request to explain the official reasons for its decision, in violation of the Applicant’s due process rights to be given notice and the opportunity to reply.

105. The Bank provided the required notice following the PRS Panel’s recommendation in Request for Review 353(B), as accepted by the HRVP. The notice did not expressly state, however, that the placement of the flag was made in connection to the restricted access “in an

effort to mitigate any security risk Applicant might pose to Bank staff,” as claimed by the Bank before these proceedings.

106. The Applicant further contends that the remedy recommended by the PRS Panel, that official notice be given to the Applicant, was “completely inadequate.” According to the Applicant, such notice “if given now, would come far too late.” She asserts that the conditional hire flag, having remained in her personnel file for years, “has had an injurious effect on [her] throughout that time period [...]. Allowing [her] to contest it now does nothing to remedy those injuries.”

107. As concluded above, the Bank has shown a proper basis to place the conditional hire flag in the Applicant’s personnel file. The Bank has however failed to observe the Applicant’s due process rights to be given notice and the opportunity to reply. In the Tribunal’s view, an order for specific performance at this stage of the proceedings would not be an appropriate remedy. The Tribunal finds, therefore, that the Applicant must be compensated for the violation of her due process rights.

THE APPLICANT’S ALLEGATIONS OF RETALIATION

108. The Tribunal will finally address the Applicant’s allegations of retaliation. It is the Applicant’s contention that three adverse decisions, namely the termination of her STC appointment, the decision to restrict her access to the Bank’s premises, and the decision to place a conditional hire flag in her personnel file, were in retaliation for her reporting of her former supervisor’s sexual misconduct to EBC in September 2013.

109. The Tribunal recalls that retaliation is prohibited by Staff Rule 3.00, paragraphs 6.01(g) and 7.06, and Staff Rule 8.01, paragraph 2.03. In *Bauman*, Decision No. 532 [2016], para. 95, the Tribunal held:

As the Tribunal has frequently observed, the Staff Rules are clear that retaliation against any person “who provides information regarding suspected misconduct or who cooperates or provides information in connection with an investigation or

review of allegations of misconduct, review or fact finding, or who uses the Conflict Resolution System” is prohibited. *See* Staff Rule 3.00, paragraphs 6.01(g) and 7.06, and Staff Rule 8.01, paragraph 2.03; *see also* CS, Decision No. 513 [2015], para. 104; *Sekabaraga (No. 2)*, Decision No. 496 [2014], para. 60. This prohibition extends also to retaliation against any person who is believed to be about to report misconduct or believed to have reported misconduct, even if such belief is mistaken.

110. The standard of proof for any claim of retaliation is that an applicant “must still make a *prima facie* case with some evidence to show [...] retaliatory motives behind the impugned decision.” *See Bodo*, Decision No. 514 [2015], para. 77. Furthermore, as stated in *Bauman*, para. 99,

“[i]t is not enough for a staff member to speculate or infer retaliation from unproven incidents of disagreement or bad feelings with another person. There must be a direct link between the alleged motive and the adverse action to amount to retaliation” (*AH*, Decision No. 401 [2009], para. 36.) The Tribunal has also recognized that “[a]lthough staff members are entitled to protection against reprisal and retaliation, managers must nevertheless have the authority to manage their staff and to take decisions that the affected staff member may find unpalatable or adverse to his or her best wishes.” (*O*, [Decision No. 337 [2005],] para. 49.)

111. Regarding the termination of her STC appointment, the Applicant contends that the evidence in the case is sufficient to “reasonably infer” that a causal link exists between her reporting and the termination of her STC appointment. She states that HR knew that she had engaged in protected activities and alleges that “an inference can be made that [HR] was the decision-maker” in terminating her appointment. For the Bank, the fact that the termination was not communicated to the Applicant clearly “does not support Applicant’s inference that there was any conspiracy against her, or any retaliation.” The Bank further asserts that (i) nobody in the hiring unit knew about the Applicant’s reporting to EBC; (ii) there is no evidence that the report to EBC was in any way related to the decision to terminate the Applicant’s contract; and (iii) the Applicant’s claims of retaliation are undermined by the fact that she was offered several STC contracts after 2013, the date on which she reported her former supervisor to EBC.

112. Regarding the restricted access and the placement of a conditional hire flag in her personnel file, the Applicant claims that an inference can be drawn from the fact that her

restricted access and the conditional hire flag were imposed in connection with the “sudden” termination of her appointment, thus suggesting that the Bank’s actions had the “clear common purpose [...] to force [her] out of the Bank and forever prevent [her] from returning.” She contends that a causal link has been established because, immediately after reporting the sexual misconduct, she “noticed a pattern of TTLs and managers avoiding me [...] after expressing an initial interest in giving me work, the TTL or manager suddenly began avoiding me and completely stopped communicating with me.”

113. The Tribunal notes that the Applicant raised allegations of retaliation in her first case before the Tribunal in *DK*, Decision No. 552 [2017]. The Tribunal found in para. 148 that:

[T]here is nothing in the record that supports the Applicant’s allegation that the Program Coordinator terminated her contract in retaliation for having reported the Senior Advisor’s misconduct. As stated by the Program Coordinator before PRS, he heard about the Applicant’s allegations of misconduct against the Senior Advisor for the first time in April 2015, that is nine months after the termination of the Applicant’s contract.

114. In the present case, the Tribunal finds that the Applicant has failed to demonstrate a causal link between her reporting to EBC and the three impugned decisions made by the Bank. While the Applicant engaged in a protected activity, there is nothing on the record that suggests that the Applicant’s reporting of her former supervisor’s sexual misconduct to EBC, which happened in September 2013, was related to the termination of her STC appointment and the decisions to restrict her access to the Bank’s premises and place a conditional hire flag in her personnel file. As shown above, these decisions were made in September 2015, two years after the Applicant’s reporting to EBC. The Tribunal therefore holds that the Applicant has failed to make a *prima facie* case for her allegations of retaliation.

115. The Tribunal concludes that the Bank’s non-observance of due process in relation to (i) the termination of the Applicant’s STC appointment, and (ii) the placement of the conditional hire flag in the Applicant’s personnel file gives rise to compensation. In calculating the amount of compensation, the Tribunal notes that the PRS Panel recommended in connection with

Request for Review No. 353(A) that the Bank compensate the Applicant in the amount of “11 (eleven) days of her daily rate of her former STC appointment.”

116. By letter dated 10 October 2018, the Tribunal notified the Applicant that, pursuant to Rule 29 of the Tribunal’s Rules, she may submit an application for costs. By letter dated 15 October 2018, the Tribunal granted the Applicant an extension of time to file an application for costs. The Applicant failed to submit her application for costs. The Tribunal accordingly awards no legal fees and costs.

DECISION

- (1) The Bank shall pay the Applicant compensation in the amount of \$10,000.00 for the Bank’s failure to follow due process as identified above; and
- (2) All other claims are dismissed.

/S/ Mónica Pinto
Mónica Pinto
President

/S/Zakir Hafez
Zakir Hafez
Executive Secretary

At Washington, D.C., 18 October 2018