



World Bank Administrative Tribunal

2025

Decision No. 721

**ER (No. 4),
Applicant**

v.

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

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

**ER (No. 4),
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 Janice Bellace (President), Seward Cooper (Vice-President), Lynne Charbonneau (Vice-President), Martha Halfeld Furtado de Mendonça Schmidt, Thomas Laker, Raul C. Pangalangan, and Joëlle Adda.

2. The amended Application was received on 28 February 2025. The Applicant represented himself. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Administration), Legal Vice Presidency. The Applicant's request for anonymity was granted on 30 October 2025.

3. The Applicant "request[s] the Tribunal to reverse the OTI [Opportunity to Improve Performance] decision and order [the Bank] to remove [the] OTI from [his] official HR [Human Resources] records."

FACTUAL BACKGROUND

4. The Applicant joined the Bank in 2004 as a Resource Management Analyst, Grade Level GE. Over the years, the Applicant has held several positions within the Budget, Performance Review, and Strategic Planning Vice Presidency (BPS), most recently as a Financial Analyst in BPS Solutions.

5. In October 2014, the Applicant raised budget-related concerns with the Ethics and Business Conduct Department (EBC), which advised him that the Information and Technology Solutions (ITS) budget functions were outside its mandate. The Applicant then reported the concerns to his manager, who initiated an Internal Audit Department (IAD) audit.

6. On 19 May 2015, IAD issued its report. In its “Overall Conclusion,” the report stated:

We did not find any breach of Bank policies or any intentional attempt to circumvent institutional governance arrangements. BPS management was responsive, candid and supportive throughout the course of IAD’s engagement.

We have however noted documentation gaps and lapses, and have recommended process and control improvements to provide for a more robust documentation trail in the recording and tracking of budget decisions.

7. On 28 April 2017, the Applicant again met with EBC to report budget anomalies.

8. On 31 May 2017, EBC informed the Applicant that, after “thorough and careful review of the evidence available to us, which included a review of all documentation and information you provided to EBC, we have determined that there is insufficient factual basis to proceed to formal investigation. Therefore, EBC closed the case.”

9. The Applicant challenged EBC’s decision to close its investigation into the budgeting matters raised by the Applicant, and the Tribunal, in *ER (Preliminary Objection)*, Decision No. 586 [2018], issued on 18 May 2018, dismissed his application as inadmissible since it did not meet the jurisdictional requirements imposed by Article II of the Tribunal’s Statute.

10. On 14 January 2018, the Applicant again contacted EBC to report what he believed to be budget anomalies and the false reporting of the ITS budget to the Bank’s Board.

11. On 7 March 2018, EBC emailed the Applicant following a prior call confirming the case closure, explaining that his allegations of “budget manipulation” fell outside EBC’s mandate under Staff Rule 3.00, and advising that his concerns regarding the Gartner Information Technology (IT) Benchmark methodology should be directed to IAD.

12. The Applicant challenged this second EBC decision to close his case concerning the alleged budget anomalies. In *ER (No. 2) (Preliminary Objection)*, Decision No. 606 [2019], issued on 26 April 2019, the Tribunal dismissed this second application as inadmissible for failure to comply with Article II of the Tribunal’s Statute.

13. Around November 2022, the Applicant sent a communication to a U.S. Congresswoman. On 16 November 2022, the Congresswoman responded, thanking the Applicant for contacting her “regarding oversight of the World Bank” and requesting that the Applicant sign a digital privacy release form and provide any relevant correspondence or documents.

14. On 8 March 2023, the Applicant emailed an Ombudsman, copying the World Bank Group (WBG) Chief Risk Officer (CRO), expressing concern about reporting retaliation through EBC and requesting consideration of an alternative reviewer to investigate his retaliation claims.

15. On 26 May 2023, the Applicant emailed the BPS Vice President (BPSVP), copying the Ombudsman and the CRO, alleging that the Bank had violated various provisions of the U.S. International Financial Institutions Act, claiming that he had been retaliated against on “more than six occasions,” and reiterating his request for an “alternative investigator” to review his retaliation claims.

16. On 12 June 2023, the Applicant emailed the WBG President, copying a number of Bank officials, and attaching an approximately 200-page self-prepared document. In the document the Applicant alleged violations of international laws and obligations by the Bank and sought changes to the Bank’s accounting practices.

17. On 31 July 2023, the Applicant emailed the WBG Chief Financial Officer, copying the WBG President and other senior officials, again alleging violations of international law, raising concerns about a “questionable accounting practice” that could affect the Fiscal Year (FY) 2023 financial statement, and attaching corrective actions and alternative courses of action.

18. On 6 August 2023, the BPSVP emailed the Applicant referencing his prior messages of 26 May, 12 June, and 31 July 2023 to senior Bank management and reiterating that his offer to meet with the Applicant to find a path toward resolution of the matters raised remained open.

19. On 11 August 2023, the Applicant wrote to the BPSVP, stating that he was reiterating his request for an informal one-on-one discussion. He stated his intention to address six items:

“Accounting error - Suspected Misconduct”; “Corruption”; “Retaliation”; “Human Rights abuse and Waiver of Immunity”; “Savings, professional intimidation, and [...] framework”; and “Education project and reduced work program.”

20. On 18 September 2023, the Applicant met with BPS management to express his continuing concerns regarding alleged issues with the budget process relating to ITS. Following this meeting, the BPSVP assigned a Director in BPS (BPS Director) to review the Applicant’s allegations.

21. On 20 September 2023, the BPSVP wrote to the Bank’s Senior Vice President and General Counsel noting that he had met with the Applicant earlier that day, stating that some topics required further discussion within BPS while others required legal input, and requesting that the Senior Vice President and General Counsel meet with the Applicant to provide advice.

22. On 4 October 2023, the Applicant wrote to the Vice President, Human Resources (HRDVP) and requested a meeting.

23. On 20 October 2023, the Applicant wrote to the HRDVP again and requested an “alternative reviewer to investigate misconduct and retaliation.”

24. On 13 November 2023, the Applicant wrote to the BPSVP, copying the BPS Director and the CRO, requesting the release of the BPS Director’s findings from his review of the Applicant’s budget-related allegations, alleging willful misrepresentation that led to a \$50 million budget increase and past retaliation from his line managers for bringing up anomalies in IT Benchmarks, and requesting that rectified IT Benchmarks results be shared with the Board.

25. On 15 November 2023, the BPSVP emailed the Applicant, informing him that the review of his budget-related concerns found no evidence of intentional misrepresentation or policy violations, and that the alleged issues had no impact on the Bank’s financial or budgetary accounting. The BPSVP advised that no further action would be taken and that the findings had been shared with senior officials in various offices, including the President’s Office, the Office of

the Vice President and Corporate Secretary, HR, and the Ethics and Internal Justice Services Vice Presidency (EIJ), and would be conveyed to the Budget Committee Chair.

26. On 17 November 2023, the Applicant emailed the BPSVP, copying the Vice President, EIJ (EIJVP) and other members of senior management, expressing concerns about reporting retaliation, alleging that critical evidence was being destroyed, and stating his intention to raise the matter with the Board's HR and Audit Committees.

27. Later that same day, the BPSVP responded to the Applicant, stating:

Firstly, if you have any concerns/evidence that you wish to share with the Board HR Chair or the Board Audit Chair, please feel free to do so immediately. While I cannot offer guidance on the appropriateness of that route, I can assure you that BPS management team will not stand in the way of any staff member with Whistleblower concerns, especially if it involves the claim of destruction of critical evidence of retaliation in my department.

Secondly, I take any threat of staff retaliation seriously. Since I joined BPS, I have deliberately not involved your immediate supervisor or manager in any of the allegations that you have raised. If you have specific actions to report, please report them to EIJ in accordance with Staff Rule 8.02 (protections and procedures for whistleblowers) to ensure that the action you report is independently addressed. I do not want any actual or perceived interference from my office.

28. On 20 November 2023, the Applicant informed the BPSVP via email of his intention to raise his concerns with the Board's HR and Audit Committees, citing conflicts of interest within EIJ, HR, and Legal and expressing fears that evidence could be destroyed or concealed. In a draft statement to the committees included in this email, the Applicant described years of fear of job loss and frustration with what he called a "broken Internal Justice System," stating that he wished to see systemic reform and hoped for "a pathway towards a resolution by Dec 12th."

29. On 21 November 2023, in response to the Applicant's 17 November 2023 email, the EIJVP wrote to the Applicant encouraging him to officially report his retaliation and destruction of evidence allegations to Business Integrity Review (BIR) in EIJ.

30. On 4 December 2023, the Applicant emailed Executive Directors on the Audit and HR Committees of the Board detailing his budget-related concerns. He requested that the committee members select an independent investigator to review retaliation and other misconduct, destruction of evidence, fraud, corruption, and gaps in professionalism. He also requested that the committee members recommend suitable changes to policies and practices, corrective measures to address the Bank's continued violation of international laws, and changes to periodic assessments of senior managers.

31. On 12 December 2023, the Applicant emailed the EIJVP and the Manager of BIR (BIR Manager) stating that he wished to report misconduct but "[did not] know the staff responsible for the misconduct."

32. On 14 December 2023, the Applicant emailed the BPSVP, copying the Deputy General Counsel, Institutional Administration and the BIR Manager, asking to be allowed to telecommute from India for four weeks in order to work with his extended family and friends and local counsel to prepare a report on the "many instances of misrepresentation in Board documents" and "help highlight flaws in [the] WBG's Internal Justice System."

33. On 21 December 2023, the BPSVP wrote to the Applicant denying the telecommuting request, expressing concern about his health and well-being, and requesting that the Applicant undergo a Fitness for Duty (FFD) assessment. The email stated in part:

I refer to your email dated December 14, 2023 in which you request my permission for telecommuting arrangements for yourself without involving your direct manager. As with many of your recent correspondence, I find both the form and nature of this request disruptive to the normal conduct of my department.

While I do not discourage staff from raising concerns through the mechanisms available to them and otherwise as provided under the staff rules, re-raising the same concerns with the same audiences after they have been thoroughly reviewed is not appropriate and is disruptive to the institution.

BPS' patience with regard to your disruptive behavior has come to its end and you must stop, as BPS will no longer tolerate further disturbance to your immediate workplace and the WBG at large.

As overall BPS manager, I remain very concerned for your health and wellbeing. Accordingly, I respectfully request that you undergo a fitness for duty (FFD) assessment with our HSD [Health and Safety Directorate] colleagues (copied) [...].

[...] [I]f you refuse to cooperate with a FFD assessment by the second week in January 2024, you would leave BPS management no alternative but to place you on an Opportunity to Improve (OTI) concerning behavioral issues and the performance of your job functions and work program.

34. In January and February 2024, during an exchange of several email correspondences with HSD and HR, the Applicant stated that he would not participate in the FFD process until he was provided with a list of behaviors the BPSVP considered disruptive, the terms of reference for his position, and all emails pertaining to the Applicant's health received by HSD since December 2023. The Applicant stated that due process required disclosure of this information and that failure to do so would violate his Fifth and Fourteenth Amendment rights under the U.S. Constitution. HSD informed the Applicant that it served only in a facilitative and consultative capacity, stated that it could not provide the requested documents, and advised the Applicant to direct his requests to management.

35. On 21 February 2024, the Applicant emailed HSD stating that HSD's refusal to share any health-related emails it may possess denied his due process rights and warning that, if HSD persisted in denying his due process rights, then he would pursue remedies for the Bank's infringement.

36. On 28 February 2024, the BPSVP emailed the Applicant, notifying him of the decision to place him on an OTI beginning 4 March 2024. The email outlined the background for the decision and listed behaviors the Applicant must refrain from to successfully complete the OTI. The email summarized the rationale for the OTI by explaining that the decision followed multiple complaints from senior officials at the Bank regarding the Applicant's "behavior of unwelcome harassment," noting that the Applicant's continued threats to act against the institution outside established internal justice channels had disrupted the time and attention of senior management.

37. On 13 March 2024, the Applicant formally received the OTI memorandum from his Manager, outlining that his repeated and widely distributed correspondence and allegations had

become disruptive to BPS and the wider Bank despite multiple reminders to use proper channels. The memorandum directed the Applicant to pursue any complaints through the internal justice system within 30 days and to immediately cease contacting staff, Executive Directors, or management outside those channels regarding his allegations. It further required the Applicant to demonstrate immediate improvement in professional behavior, warning that failure to do so could result in termination under Staff Rule 7.01.

38. On 20 March 2024, the Senior Vice President and General Counsel wrote to the Applicant, informing him that his 4 December 2023 email to Executive Directors on the Audit and HR Committees of the Board was inappropriate and that he had advised the Executive Directors not to respond. The Senior Vice President and General Counsel stated that the Applicant had been repeatedly advised to pursue his concerns through the established internal channels, including HR and EIJ, and stated that he was again requesting that the Applicant discontinue direct outreach to members of the Board or shareholders.

39. On 17 April 2024, the Applicant sent an email titled “Response to Opportunity to Improve Memo” to his Manager, the HR Manager, the Director of Corporate Units in BPS, and the Manager of Corporate Case Management (HRDCO Manager) disputing the OTI and claiming retaliation against him by the BPSVP. The email contained various attachments regarding the Applicant’s response to the OTI and related claims.

40. The next day, on 18 April 2024, the Applicant again emailed his Manager, the HR Manager, the Director of Corporate Units in BPS, and the HRDCO Manager asking if they had sent his 17 April 2024 email and attachments to EBC, as he believed they were required to do. He stated, “Staff rule requires managers to report suspected misconduct to Ethics. The email I sent on April 17 is a report that contains both my response to [the] OTI and a report on suspected misconduct.” The HR Manager responded on the same day, encouraging the Applicant to report his concerns directly to EBC.

41. On 19 April 2024, the Applicant emailed the Ethics Helpline reporting “suspected misconduct.” He stated that he would not forward his 17 April 2024 complaint to EBC, believing

one of the copied managers was obligated to do so. The Applicant also reported “Code of Conduct violations and retaliation by [the BPSVP]”; raised concerns “about the conflict of interest of managers [his Manager, the Director of Corporate Units in BPS, and the HRDCO Manager] who will review my monthly OTI status”; and noted that he was “flagging a potential issue in the FY 25 Budget.”

42. On 29 April 2024, the BIR Manager responded to the Applicant’s 19 April 2024 email to the Ethics Helpline, noting that his allegations against the BPSVP and BPS management were similar to prior complaints that had been reviewed and found unsubstantiated. The BIR Manager informed the Applicant that no further review would be undertaken and advised that any challenge to the propriety or terms of the OTI should be pursued through an Administrative Review (AR).

43. On 13 May 2024, the Applicant filed a request for AR seeking review of his placement on an OTI and its terms. The Applicant alleged that management’s decision to place him on an OTI was not based on facts and that proper process was not followed.

44. On 18 July 2024, the AR Reviewer submitted his findings to the BPSVP, copying the Applicant. The AR Reviewer concluded that the Applicant had received sufficient oral and written warnings about his inappropriate behavior, was consistently advised to pursue his claims through EIJ, and had access to meetings with the General Counsel’s Office, HR, and EIJ to address his concerns. The AR Reviewer found a reasonable and observable basis for the decision to place the Applicant on the OTI, determined that management followed proper procedures, and recommended no changes to the OTI.

45. On 21 July 2024, the BPSVP issued his decision on the AR Report via email, agreeing with its findings and the recommendation not to change the OTI. The BPSVP copied the Applicant on the email.

46. On 19 August 2024, the Applicant requested a Performance Management Review (PMR) of his placement on the OTI and its terms.

47. On 10 October 2024, the PMR Reviewer issued his report detailing the evidence reviewed and the witnesses interviewed. The PMR Reviewer noted that management had repeatedly informed the Applicant, both verbally and in writing, that his behavior was disruptive and that he should pursue any claims through the EIJ. After reviewing the evidence, background, and applicable staff rules, the PMR Reviewer found no abuse of discretion, concluded that management had followed due process and the relevant rules, and determined that the OTI and its terms were reasonable, recommending no changes.

48. On 17 October 2024, the Bank's Managing Director and WBG Chief Administrative Officer wrote to the Applicant informing him that he had accepted the PMR Reviewer's recommendations.

49. On 28 February 2025, the Applicant submitted this amended Application to the Tribunal requesting "the Tribunal to reverse the OTI decision and order [the Bank] to remove [the] OTI from [his] official HR records."

50. The Applicant requests the Tribunal to grant thirty days of annual leave as compensation.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Applicant's Contention No. 1

The OTI decision should be reversed and removed from HR records

51. In his Application, the Applicant states that he is requesting that the Tribunal reverse the OTI decision and order the Bank to remove the OTI from his official HR records. The Applicant requests that the Tribunal under its Rule 12 order the Bank to share all documents that he considers relevant to the case before proceeding to consider the merits of his appeal of the decision to place him on an OTI plan. The Applicant states that, following consultation with his extended family and friends, he concluded that reviewing the health concerns raised by his line management with HSD is essential before submitting the merits of his appeal.

The Bank's Response*The decision to implement the OTI process has a reasonable and observable basis*

52. As a preliminary matter, the Bank contends that the Applicant has not directly challenged management's suggestion that he undergo an FFD assessment and that there is no direct link between the FFD request and the decision to place him on an OTI. Therefore, the Bank contends that the Applicant's request for documents is irrelevant for assessing the legality of the solely challenged decision, which is the decision to place him on an OTI.

53. The Bank contends that the Applicant does not challenge the substance or reasonableness of the OTI but instead raises due process objections relating to the FFD request and the appointment of an alternative reviewer for the Applicant's misconduct claims relating to alleged destruction of evidence and budget concerns. The Bank asserts that, under Staff Rule 5.03, managers have discretion to issue an OTI for unsatisfactory performance including workplace behavior, and that Tribunal jurisprudence limits challenges to cases where such decisions constitute an abuse of discretion.

54. The Bank maintains that the OTI followed exhaustive prior efforts to address the Applicant's recurring budget-related complaints, all of which had been thoroughly reviewed with no evidence of wrongdoing found. The Bank asserts that the OTI was a reasonable response to the ongoing disruption caused by the Applicant's repeated allegations, as described in the 28 February 2024 email from the BPSVP.

55. Finally, the Bank emphasizes that the OTI was not a penalty for the Applicant's refusal to undergo the FFD but was implemented after his non-cooperation with HSD left no alternative to address his persistent disruptive behavior.

The Applicant's Contention No. 2***The Bank violated the Applicant's due process rights***

56. The Applicant contends that the Bank failed to follow due process with respect to him as guaranteed by the U.S. Constitution. The Applicant asserts that the BPSVP repeatedly provided false information or concealed critical details regarding his allegations, which adversely impacted him. The Applicant further asserts that procedural fairness required disclosure of all communications the BPSVP had with the WBG President's Office concerning the Applicant's budget-related allegations, correspondence, and the BPSVP's adverse actions taken against the Applicant, and that failure to disclose these communications violated the due process protections guaranteed by the U.S. Constitution.

57. The Applicant submits that, based on U.S. federal case law, procedural due process is denied when deciding officials consider new and material information not shared with the employee. He contends that the Tribunal should hold the Bank to similar standards by prohibiting ex parte communications. The Applicant asserts that the Bank's refusal to share the BPSVP's correspondence with the WBG President's Office and the Chair of the Budget Committee undermines transparency and fairness.

58. Finally, the Applicant contends that HSD's failure to provide emails and documents related to his health created unfavorable working conditions in violation of the Universal Declaration of Human Rights (UDHR), and that requiring him to undergo an FFD assessment without access to this information lacked transparency, thereby violating the International Covenant on Civil and Political Rights (ICCPR).

The Bank's Response***The Applicant was afforded all due process concerning the OTI***

59. The Bank contends that the Applicant's repeated references to "due process" do not identify any violation of his specific due process rights in relation to the OTI. The Bank asserts that the Applicant received ample notice of the behaviors he was expected to stop, was given the

opportunity to respond, and thus was accorded due process as required under Bank procedures. The Bank contends that the Applicant's claims of due process violations under the U.S. Constitution, the UDHR, and the ICCPR are not applicable, and that the only issues raised applicable to the Bank – HSD's alleged failure to provide "documents related to his health" and the Bank's failure to appoint an alternative reviewer to review his budget-related misconduct claims – do not constitute due process violations related to the implementation of an OTI under the Staff Rules or Tribunal precedent.

60. The Bank submits that the Staff Rules list the steps to be followed to safeguard staff members' rights in connection with an OTI. The Bank asserts that under Staff Rule 5.03, paragraph 5.01, if a manager or designated supervisor determines that a staff member's performance, including professional and workplace behavior, is unsatisfactory, they may do the following: "Discuss and share with the Staff Member in writing: i. the aspects of performance that are not satisfactory, ii. guidance on what improvement is expected and by when, and iii. the possible consequences of failure to improve." The Bank contends that all of these steps were followed in this case.

61. The Bank asserts that compliance with the directives in the OTI memorandum was straightforward because they required the Applicant simply to abstain from certain behaviors. The Bank further asserts that the OTI memorandum clearly stated the potential consequences: "failure to improve at a reasonable pace or to sustain satisfactory performance is a serious matter and could result in the termination of your employment." Finally, the Bank submits that both the AR and PMR reviewers carefully reviewed the history and communications leading to the decision to initiate the OTI, and both confirmed that all steps were taken appropriately.

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

62. The Tribunal wishes to note at the beginning that the Applicant has not clearly set out his claims and contentions in his pleadings. The Tribunal in *HW (Preliminary Objection)*, Decision No. 715 [2025], para. 65, stated that,

in cases where the articulation of claims lacks precision, the Tribunal has recalled that “it is the duty of every international tribunal ‘to isolate the real issue in the case and to identify the object of the claim,’ and that ‘this is one of the attributes of its judicial function.’” *See Rittner*, Decision No. 335 [2005], paras. 27–29. *See also, McNeill*, Decision No. 157 [1997], para. 26.

63. Considering the record as a whole, the Tribunal considers that there are three issues before the Tribunal: (i) whether the decision to place the Applicant on an OTI has a reasonable and observable basis; (ii) whether the terms of the OTI are reasonable; and (iii) whether the Bank has respected the Applicant’s due process rights with respect to the OTI.

Whether the decision to place the Applicant on an OTI has a reasonable and observable basis

64. Under the Bank’s rules, an OTI can be initiated to address performance deficiencies of a staff member in technical or behavioral aspects. Staff Rule 5.03, paragraph 5.01, in effect at the time of the imposition of the OTI, stated:

If a Manager or Designated Supervisor determines that a Staff Member’s performance (which includes professional and workplace behavior) is not satisfactory, the Manager or Designated Supervisor may do the following: [...]

Discuss and Document Opportunity to Improve Unsatisfactory Performance.
Discuss and share with the Staff Member in writing:

- i. the aspects of performance that are not satisfactory,
- ii. guidance on what improvement is expected and by when, and
- iii. the possible consequences of failure to improve.

65. The Tribunal has stated in *AI*, Decision No. 402 [2010], para. 109, that

[t]he imposition of [an OTI] is a discretionary decision of management; as such, the Tribunal will interfere with or invalidate such an exercise of discretion if it can be shown that the decision was “arbitrary, discriminatory, improperly motivated or carried out in violation of a fair and reasonable procedure.” *Sebastian (No. 2)*, Decision No. 57 [1988], para. 22.

66. Here, the Applicant does not make any contentions challenging the reasons invoked by the Bank for the imposition of the OTI. He, however, “request[s] the Tribunal to reverse the OTI decision and order [the Bank] to remove [the] OTI from [his] official HR records.” In this context, the Tribunal wishes to note that, during the course of the proceedings in this case, the Tribunal addressed the Applicant’s request for documents and further elaboration on his request for documents is not necessary here.

67. The Bank’s reasons for placing the Applicant on an OTI are set out in two documents that are part of the record. On 28 February 2024, the BPSVP emailed the Applicant notifying him of the decision to place the Applicant on an OTI. The email outlined the background including the reasons for the decision and listed behaviors the Applicant must refrain from to successfully complete the OTI. The email stated *inter alia*:

I write to formally inform you of my decision to place you in Opportunity to Improve (OTI) Status effective Monday, March 4, 2024.

My decision is based on the attached summary of the specific work performance concerns which I prepared in January to request a Fitness for Duty Assessment. A request which you did not respond to my email, discussed with health staff, and subsequently declined.

After that first email, I have since had to deal with complaints from the Data Privacy Officer, the Chief Risk Officer, the President’s Office, and my own Director about your behavior of unwelcome harassment. Your continuing actions of issuing threats to act against the institution, but not doing so within the established internal justice channels continues to disrupt my time and that of Senior Management at the institution, all of whom have met with you at various times over the years to help reach resolution.

68. With the above email, the BPSVP also attached a document that provided a “summary of the specific work performance concerns.” In that document the BPSVP specifically mentioned his concerns about the Applicant’s allegations of “ongoing destruction of evidence” and their damaging impact. The BPSVP stated:

More seriously, the allegations of ongoing destruction of evidence have been damaging. Although [the Applicant] apologized for suggesting that this was ongoing in BPS, I still had to devote considerable time to responding to this

allegation while working on the budget reform process that requires a greater degree of Board and management trust in the systems in place.

69. In the “Conclusion” part of the “summary of the specific work performance concerns,” the BPSVP stated:

As I have said to [the Applicant] before, if any member of staff has any concerns of any kind, they should act on them through the established internal justice system or failing that, the external justice system to reach a resolution. What I cannot accommodate is a staff member who feels they can continuously make allegations of serious violations against the Bank, my department, and me indefinitely, without acting on these allegations so that we reach a resolution. Such behavior is disrespectful of the time and reputation of colleagues in the department and disruptive of the work program in the department. In particular, I take any threat of staff retaliation seriously. If [the Applicant] has specific actions to report, he should report them immediately to the EIJ in accordance with Staff Rule 8.02 (protections and procedures for whistleblowers) to ensure that the actions [the Applicant] alleges are independently and swiftly addressed. The continuing cloud of destruction of evidence, retaliation, and ongoing deliberate misrepresentation to the Board is creating a hostile work environment and disruptive to the ongoing budget reforms.

70. On 13 March 2024, the Applicant received the formal OTI memorandum repeating the terms and conditions included in the email of 28 February. This OTI memorandum also articulated the underlying reasons for the OTI. The relevant paragraphs of the memorandum read as follows:

You have continued to consume significant institutional resources through inappropriate channels despite being advised several times of the appropriate channels in which to address your concerns. Over the last 12 months, staff members have received correspondence from you where you declare that you will pursue internal and/or external justice action against the World Bank, BPS, and staff members for wrongs alleged to have taken place in BPS in 2014. You have also made allegations of ongoing destruction of evidence and the threat of retaliation without pursuing these through the proper channels. Your repeated allegations with no follow through despite significant institutional resource being devoted to your allegations, no longer falls within the prudent norms of professional behavior.

During these past few months your behavior and allegations have escalated. Even through this process, you have been consistently encouraged to proceed through the appropriate channels so that the matter is resolved. To aid you in this process, meetings have been facilitated with the World Bank General Counsel’s office, People and Culture staff, and the Ethics and Internal Justice Vice Presidency. An internal review undertaken by BPS, with your extensive involvement, was unable to validate your allegations. The Vice President has personally followed up with the

General Counsel and Senior Vice President, the People and Culture Vice President, and the Ethics and Internal Justice Vice President to ensure that all the internal justice options are available to you to pursue your concerns.

It is also my understanding that you have repeatedly contacted Executive Directors about this issue despite being advised that this was not appropriate.

This process has been both time-consuming and disruptive to the work of the entire BPS Vice Presidency and institution at large. Your continued behavior has crossed from professional to inappropriate. You have made unfounded allegations of ongoing destruction of evidence that have impacted the VP's ability to carry out his duties and diverted significant resources from BPS core work. Although you apologized to the VP for suggesting that this was ongoing in BPS, considerable time was spent responding to this allegation while the department's focus was working on the budget reform process that requires a greater degree of Board and management trust in the systems in place.

71. Based on the email of 28 February 2024 read together with its attachment and the memorandum of 13 March 2024, the Tribunal is satisfied that the Bank has provided a reasonable and observable basis for placing the Applicant on an OTI.

72. The Tribunal is satisfied that the record before it supports the reasons invoked by the Bank. In this regard, the Tribunal takes note of the findings of the PMR. In the PMR Report, the Reviewer stated that, in conducting review of the OTI, he considered the Applicant's "Request for PMR and the additional documentation provided by management." The PMR Reviewer also noted that he interviewed the following staff members: (i) the Applicant, (ii) the BPSVP, (iii) the Director of Corporate Units in BPS, (iv) the HR Manager, (v) the AR Reviewer, and (vi) "one staff member with knowledge of the matter under review."

73. The PMR Reviewer summarized the statements of these staff members during the interviews as follows in the PMR Report:

In addition to [the Applicant], [the BPSVP], and [the Director of Corporate Units in BPS], I interviewed three other staff members. The salient comments I received, without making attributions, focused on behavior. Interviewees stated that this case had been put to rest in the past. Still, [the Applicant] would bring it back because the outcome has not been to his satisfaction, even in the face of three Administrative Tribunal decisions that found no case to his contentions. Interview[ee]s also stated that when [the Applicant] got pushback from management on his allegations, he

would start all over again, bringing the issue to the attention of newly appointed senior management or other units. They also confirmed that [the Applicant] was told several times to stop acting in this manner, as people felt harassed and inappropriately approached, and to follow the process within the Internal Justice System. They said [the Applicant] sent documents to the Board, creating noise and confusion. They added that since the issues were not resolved to his satisfaction, he took the case outside the WBG without first exhausting the internal mechanisms of the Internal Justice System. They found his behavior distracting, making accusations without sound evidence and sometimes bordering on harassment. On the budget process issues, the person conducting it said he took [the Applicant's] concerns very seriously and did a thorough review. He said the review found that the issues raised several years ago were not happening now, and if they were, no policy would be breached. Furthermore, the review found no fundamental accounting or financial issues or material impact. In response to that conclusion, [the Applicant] said he would take the issue outside the WBG. Interviewees stated that, despite being asked several times, they did not see any genuine attempt by [the Applicant] to resolve the behavior before being put on the OTI.

74. After considering the documents and the statements of the interviewees, the PMR Reviewer concluded as follows:

On several occasions before [the Applicant's] placement on an OTI, management communicated verbally and in writing to him that his behavior was disruptive and that if he wished to pursue the case inside the institution, he should do so through the options available within the Internal Justice System. This is well documented in various emails, including that of [the Senior Vice President and General Counsel], dated March 20, 2024. Management first pursued the option of FFD to see if the behavioral issues were health-related and communicated to [the Applicant] that he would be put on an OTI if he declined to participate. The OTI was put in place as the staff refused to undergo an FFD assessment, and his behavior did not change. As mentioned before, [the BPSVP's] email dated February 28, 2024, informed [the Applicant] of his decision to place him on an OTI, provided the reasoning supporting this decision, and the terms, expectations, and dates for the OTI. The documentation I received and reviewed corroborates these events and what management alleges. I also found [the Applicant's] assertion that he had "authorization from Management to go outside [the institution]" not sustained by the evidence. The documents I received from [the Applicant], and management indicate that management would not stand in his way if he decided to go outside the WBG. Still, they never stated that they endorsed, supported, or authorized that course of action. If any, they repeatedly suggested that he first exhausted internal options through the Internal Justice System.

I conclude that placing [the Applicant] under an OTI was justified and had a reasonable and observable basis. It was done with the expectation of attaining behavior improvement in the areas identified as showing deficiencies.

75. In the context of performance evaluation and OTI, the Tribunal stated in *Prudencio*, Decision No. 377 [2007], para. 74:

The Tribunal cannot and should not conduct a microscopic inquiry into each facet of the [a]pplicant's work program and behavior during the assessed period. The record contains extensive arguments, counterarguments and evidence about the degree of difficulty of the [a]pplicant's individual tasks during the relevant period, the reasonableness of the deadlines set for those tasks, and whether changes made to the work program during the relevant period were proper and reasonable. It would be difficult and probably fruitless to assess each individual task and change to the work program, given the number of internal and external clients, managers and team members involved, and also given the Unit's broader work needs and responsibilities with respect to which the Tribunal is ill-equipped to evaluate each decision. The only effective approach is to assess whether the evidence from the FY05 OPE [Overall Performance Evaluation] period satisfies the abuse of discretion test.

76. In the present case, the Tribunal does not need to do a microscopic review of each and every behavioral aspect of the Applicant's performance over the years to determine whether the placement on the OTI was reasonable and justified. Based on the record as a whole, the Tribunal is satisfied that the Bank had a reasonable basis to conclude that there were deficiencies in the behavioral aspects of the performance or there were valid concerns about the Applicant's behavior that needed to be addressed through an OTI. The Tribunal finds no abuse of discretion in this regard.

Whether the terms of the OTI are reasonable

77. The Tribunal recalls that regarding an OTI, Staff Rule 5.03, paragraph 5.01, states:

Discuss and share with the Staff Member in writing:

- i. the aspects of performance that are not satisfactory,
- ii. guidance on what improvement is expected and by when, and
- iii. the possible consequences of failure to improve.

78. The OTI memorandum stated that, “[s]hould [he] wish to pursue justice inside the institution,” the Applicant should “[f]ollow through in the next 30 days with the internal justice options that are available to [him].”

79. The memorandum also stated:

While you pursue resolution, you must immediately:

- (a) cease sending emails to individuals in the Bank who are not directly involved with the case you wish to bring against the institution and only communicate with those who have been held out to you as contacts within the internal justice system as your appropriate points of contact,
- (b) cease approaching and communicating with Executive Directors regarding your allegation unless they initiate the conversation,
- (c) cease approaching BPS staff and members of the BPS management team on your allegations, and
- (d) cease approaching any other World Bank Group staff regarding your allegations outside of the appropriate channels [...] which [...] have been provided to you in writing multiple times.

80. The memorandum added that management “expect[s] to see improvement immediately” and that the Applicant “will have 30 days to address these disruptive behaviors and resume professional workplace behaviors while being fair and showing respect towards [his] colleagues.”

81. The memorandum also warned that “failure to improve at a reasonable pace or sustain satisfactory performance is a serious matter and could result in the termination of [his] employment.”

82. In view of the detailed contents of the email of 28 February 2024 read together with its attachment and the memorandum of 13 March 2024, the Tribunal is satisfied that the requirements of Staff Rule 5.03, paragraph 5.01, have been met. Here, the Applicant is being asked to improve his performance by abstaining from certain behaviors. The terms of the OTI are clear; the guidance is given for improvement; and the time frame for improvement is reasonable.

Whether the Bank has respected the Applicant's due process rights

83. Although the Applicant alleges violation of his due process rights, he raises no contention related to violations of his specific due process rights with regard to the OTI.

84. The Tribunal is satisfied that essential due process rights of the Applicant regarding the OTI were respected.

DECISION

The Application is dismissed.

/S/Janice Bellace
Janice Bellace
President

/S/ Zakir Hafez
Zakir Hafez
Executive Secretary

At Washington, D.C., 14 November 2025