



World Bank Administrative Tribunal

2021

Decision No. 663

**GJ,
Applicant**

v.

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

(Preliminary Objection)

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

**GJ,
Applicant**

v.

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

1. This judgment is rendered by a panel of the Tribunal, established in accordance with Article V(2) of the Tribunal's Statute, and composed of Judges Andrew Burgess (President), Marielle Cohen-Branche (Vice-President), and Ann Power-Forde.

2. The Application was received on 28 January 2021. An amended Application was received on 26 March 2021. The Applicant represented himself. The Bank was represented by David Sullivan, Deputy General Counsel (Institutional Affairs), Legal Vice Presidency. The Applicant's request for anonymity was granted on 19 October 2021.

3. The Applicant challenges (i) the non-renewal of his term appointment while he was on Short-Term Disability (STD), (ii) his 2017 and 2018 performance reviews, and (iii) the decision not to convert his term appointment to an open-ended appointment.

4. On 23 April 2021, the Bank submitted preliminary objections to the Application on the basis of untimeliness and failure to exhaust internal remedies. This judgment addresses the Bank's preliminary objections.

FACTUAL BACKGROUND

5. The Applicant is a former Senior Economist, Grade Level GG, at the Bank. He joined the Bank as a Short-Term Consultant in 2006 and received a term appointment in 2009. The Applicant separated from the Bank in December 2018 following the non-renewal of his term appointment.

6. According to the Applicant, his former Acting Manager spread false narratives about him from 2016 to 2018 to practice managers and Task Team Leaders regarding "untrue work

performance issues relating to matters such as cost overruns on his project[s], [his] inability to finish assignments, etc.”

7. The Applicant states that these “interventions” by the former Acting Manager were unknown to him at the time and “damaged his reputation.” The Applicant also states that he was not provided with feedback for 18 months before the “termination of [his] contract.”

8. On 17 November 2017, the Vice President for Equitable Growth, Finance, and Institutions (EFI) sent an email to “EFI All Staff” entitled “Follow up on EFI Townhall and T&C [Trade and Competitiveness] Sounding Board Engagement,” stating in part:

Contract Extensions for T&C Term Staff?

- We are processing manual extensions by 2-years for all staff who were identified as meeting the funding/skills criteria for contract extensions by the current T&C management team, for all contracts with end dates before end-September 2018. This will avoid any transition issues/gaps for staff near contract end dates.

9. The Applicant, who worked in the EFI Vice Presidency at the time of the Vice President’s email, claims that the Bank later “denied [him] the 2-year extension that was requested by the Vice President for staff members who were, like [him], reaching the end of their [c]ontracts.”

10. On 1 July 2018, according to the Applicant, he received a notice of non-renewal of his term appointment.

11. On 7 August 2018, the Applicant sent the Pension Administration an email entitled “End of Term [C]alculation,” which stated:

Can you remind me of the schedule of payments and amounts when I leave the Bank?

I understand it as follows:

- Last paycheck I receive the end of term payout (\$108,000, equivalent to 9 months['] salary) and the moving allowance (\$6,000)

- 6 weeks after the end of my [t]erm I will receive my pension funds of \$350,000

Also, is it possible to cash out my life insurance? I have had it for more than 10 years. Presumably, I can cash it out? Have other staff done so?

12. On 9 August 2018, the Applicant followed up on his previous email to the Pension Administration, stating, “Just reminding you about my pension calculations for when I leave the Bank.”

13. On 5 September 2018, the Pension Administration responded to the Applicant’s email with a spreadsheet of the requested “pension estimate and information,” including lump-sum benefit payments totaling \$338,422.88.

14. Later that day, the Applicant replied, stating, “Thank you so much. This is good news indeed!”

15. On 5 December 2018, Human Resources issued the Applicant an End of Service Memorandum entitled “Information/Benefits Upon Ending Employment,” outlining the information relevant to his upcoming separation. The memorandum indicated that the Applicant’s last day of service would be 31 December 2018.

16. On 20 December 2018, Broadspire Services, Inc., the Third-Party Administrator (Disability Administrator) for the World Bank Group (WBG) responsible for the handling of disability claims under the Short-Term Disability Benefit Plan, wrote to the Applicant informing him that he had been approved for STD benefits, with a retroactive effective date of 26 November 2018.

17. On 31 December 2018, the Applicant officially separated from the Bank.

18. According to the Applicant, “[a]t the time of his departure from the [Bank], [he] had just been diagnosed with epilepsy” after a series of seizures. He states that subsequent tests have shown that he suffered “some cognitive defects,” including difficulties with abstract thinking, and he

believes that “these symptoms were probably worsening during the final years of [his] tenure at the World Bank.”

19. On 14 May 2019, the Applicant was hospitalized for five days. According to the Patient Discharge Instructions, the Applicant was diagnosed with convulsive disorder, nocturnal confusion, and facial droop.

20. On 6 October 2019, the Applicant was again hospitalized. According to a doctor’s note, he received treatment “for a seizure disorder” during this hospitalization.

21. On 26 August 2020, the Applicant emailed the Disability Administrator, stating, “Can you kindly send me the updated benefit determination to cover the period from September 30 until I move onto LTD [Long-Term Disability]?”

22. On 9 September 2020, the Applicant again emailed the Disability Administrator, stating:

I am writing to seek your decision on whether my STD benefit will be extended from September 30 to November 26, 2020 as requested by my physician, [Dr. X]. The delay in sorting out these details is aggravating my condition.

I re-attach the notice sent from the World Bank disability group that I will be shifting from STD to LTD from November 26, 2020.

I re-attach the patient information sheet from [Dr. X] and his request for the prolongation of my benefits.

Would you be able to please send me your determination of the extension request at your earliest convenience?

23. On 9 September 2020, the Disability Administrator notified the Applicant of the forthcoming formal denial of his LTD claim, stating:

To answer your questions: it cannot be assumed that this is a benefit that is due or owed to you. This is a contingent benefit. It cannot be assumed that you are eligible for LTD at this time.

[...] diagnosis alone is not enough to place and keep someone on [Short-Term] Disability.

Your attending physician statement is missing the diagnosis page. Your medical documentation is not detailed. There are no records of any recent diagnostics. The notes are sparse. We simply cannot approve an extension with so little information, and we, at this time, cannot approve LTD. You will receive official notice of this shortly.

We will be conducting a peer to peer review and the request is set to go to Dr[...] [...] shortly. This is in lieu of an independent medical examination, because of the COVID-19 pandemic. This review will determine if you are eligible to have STD continued to the end of benefit date.

24. On 26 September 2020, the Applicant first attempted to submit an Application to the Tribunal by mail, but the Application was not received because the Tribunal was adhering to the Bank's home-based work advisory (from 13 March 2020), allowing for electronic filing of submissions "until further notice" due to the COVID-19 pandemic.

25. On 30 September 2020, the Disability Administrator wrote to the Applicant to inform him that his STD benefits were extended to 26 November 2020, the maximum total period (of 24 months) of STD benefits before the Disability Administrator would be obliged to make a decision regarding LTD.

26. On 28 January 2021, the Tribunal received the Application, noting deficiencies in the submission.

27. On 26 March 2021, the Applicant submitted an amended Application to the Tribunal challenging (i) the non-renewal of his term appointment while he was on STD, (ii) his 2017 and 2018 performance reviews, and (iii) the decision not to convert him to an open-ended appointment.

28. For relief, the Applicant requests compensation and reversal of the decision not to renew his contract. The Applicant also requests "legal fees and any travel costs associated with the Tribunal proceedings."

29. On 23 April 2021, the Bank filed preliminary objections requesting that all of the claims in the Application be dismissed in full and that the relief sought be denied.

SUMMARY OF THE CONTENTIONS OF THE PARTIES

The Bank's Contentions

30. The Bank contends that all of the Applicant's claims, including (i) the non-renewal of his term appointment while he was on STD, (ii) his 2017 and 2018 performance reviews, and (iii) the decision not to convert his term appointment to an open-ended appointment, are untimely and therefore should be dismissed because "they occurred well beyond 120 days before [the] Applicant's filing of his Application on March 26, 2021."

31. The Bank contends that the "Applicant's claims are all very much out of time, as [the Applicant] has acknowledged" in his pleadings. The Bank asserts that the Applicant missed the deadline to file his claim according to Tribunal precedent, which states that "the *dies a quo* for the Applicant's claim challenging the non-renewal of his contract is not the date when his contract was terminated, but rather the date on which he was first notified of the non-renewal." The Bank asserts that consequently, "as the Applicant received notice of the non-renewal decision on July 1, 2018, any challenge to this decision must have been filed by October 29, 2018, 120 days later," which the Applicant failed to do. Further, the Bank points out that "the Applicant did not attempt his first filing with the Tribunal" until 26 September 2020, 818 days after notice of the non-renewal, and that the Applicant "failed to even request an extension of the time limit from the Tribunal."

32. The Bank contends that, "although the Applicant's medical condition is sympathetic," he has failed to demonstrate the existence of exceptional circumstances as prescribed by Article II(2) of the Tribunal's Statute and articulated in the Tribunal's jurisprudence to excuse the late filing of his Application. The Bank asserts that, in order to prove exceptional circumstances, "allegations of a general nature are insufficient." Moreover, the Bank asserts that Tribunal precedent establishes that, "[f]or health issues to constitute exceptional circumstances, it must be shown specifically that

the medical condition resulted in [the] Applicant being unable to bring a complaint, and mere inconvenience is insufficient.” The Bank contends that, in this case, the Applicant failed to demonstrate that his condition specifically prevented him from filing his Application by the 120-day deadline of 29 October 2018. The Bank underscores this point by noting that the Applicant was not on approved disability until November 2018, nearly five months after he was informed of the non-renewal decision on 1 July 2018. Further, the Bank points out that, in the months immediately following the notice of non-renewal, the Applicant failed to file a timely application to the Tribunal yet was able to confer with the Pension Administration to receive estimates of his pension benefits, thereby “demonstrating his ability to communicate and comprehend during this time period, where there was sufficient interest and motivation.”

33. The Bank contends that none of the medical evidence submitted by the Applicant demonstrates exceptional circumstances, including (i) a medical report from March 2021, (ii) evidence of two hospital stays in May and October 2019, and (iii) two statements from a physician prepared in connection with his disability case, one from October 2020 and the other unsigned and undated. The Bank asserts that these records do not explain the “hundreds of days that remain unaccounted for during his prolonged period of inaction on his claims.” The Bank also asserts that the aforementioned submissions all occurred after the Applicant separated from the Bank and not within the 120-day period after he received the notice of non-renewal on 1 July 2018. Further, the Bank contends that the Disability Administrator’s reports “seem to indicate that [the] Applicant possessed normal motor functioning,” and that the October 2020 report notes that the Applicant had “normal reasoning and judgment and demonstrated an ability to concentrate for at least 30–50 minute periods, the maximum option on the form.” The Bank asserts that, despite the Applicant’s “ongoing medical condition,” he was able to file his Application on 26 March 2021, and “therefore it is not unreasonable to believe that he may have been capable of preparing an [a]pplication at some point between 2018 and 2020.”

34. The Bank also contends that, even if the Applicant’s medical condition prevented him from filing a timely application, he could have “made the minimal effort to request an extension of time to file.” The Bank asserts that, even if one were to accept that the Tribunal proceeding itself would be stressful, there is no explanation as to why the Applicant failed to submit a request for an

extension, especially since he claims to have been in “semi-regular contact with the Tribunal since his departure from the Bank [...]”

35. The Bank rejects the Applicant’s “brief reference to the COVID-19 lockdown in Italy having delayed his transition to a new medication” as an exceptional circumstance. The Bank asserts that the Applicant does not explain how this justifies his failing to file a timely application. Further, the Bank avers that COVID-19 restrictions were implemented “nearly two years” after the Applicant first received notice of the non-renewal decision.

36. In addition to the Bank’s position that all of the Applicant’s claims are time-barred, the Bank contends that the Applicant’s claims regarding (i) past performance reviews and (ii) the decision not to convert his term appointment to an open-ended appointment are inadmissible because the Applicant failed to exhaust internal remedies. The Bank asserts that, in keeping with Staff Rule 9.06, the Applicant was required to raise his performance evaluation claims first as a request for Administrative Review and second as a request for Performance Management Review, yet he failed to do so. The Bank avers that, if the Applicant had wanted to challenge the decision not to convert his term appointment to an open-ended appointment, then he should have submitted a claim to Peer Review Services (PRS) in accordance with Staff Rule 9.03, yet he also failed to do so.

The Applicant’s Contentions

37. According to the Applicant, he “accepts that the claims are well beyond the Tribunal’s stipulated time limit and that there is rarely a justification for ignoring the time limit but asks for extenuating circumstances” due to his illness. The Applicant “requests leniency on the timeline” and asserts that he was “avoiding any stressful situations during this period in order to reduce his seizures.” The Applicant contends that, until recently, the “stress of taking on a Tribunal case would have exaggerated [his] condition.” The Applicant further states that he “has been in semi-regular contact with the Tribunal since his departure from the Bank.”

38. The Applicant asserts that his “claim for exceptional circumstances is based simply on one condition: late-onset frontal lobe epilepsy characterized by repeated seizures.” He further asserts that his “passivity” in his final few months at the Bank “is likely to have been a [by-product] of the seizures that he was experiencing prior to his first witnessed event in [September 2018].” According to the Applicant, “doctors have agreed that these events were likely to [have] been taking place well before his first Emergency Room visit.” The Applicant asserts that, “[a]part from the Emergency [R]oom visit in 2018, [he] also had two hospitalizations each of five days duration in 2019.”

39. Further, with regard to the Applicant’s failure to timely file his claims with the Tribunal and exhaust internal remedies, he requests that the Tribunal make an exception due to “extenuating circumstances,” contending:

[T]he Applicant had been exhibiting symptoms associated with a neurological disorder since at least 2017. These symptoms include mood dysregulation, difficulty sleeping, poor concentration, [and] extreme anxiety. The Applicant’s eventual diagnosis of untreated, late onset frontal lobe epilepsy after manifesting seizures in front of witnesses finally allowed the treating physicians to isolate and understand the underlying cause of the Applicant’s symptoms.

A neuro cognitive disorder, unlike a back injury or a nerve injury, does not have a clear boundary between when a person is fully functional and when a person is dysfunctional. Indeed, the Applicant was unable to judge his own capacities to work at a functional level during this period. When the Applicant was able to reduce the frequency of his seizures and stabilize the side effects of his illness after more than a year of therapy and different medications, [he was] sufficiently functional to properly address the circumstances of his departure from the [Bank].

40. Finally, the Applicant “accepts [the Bank’s] objection that all claims relating to performance reviews and non-conversion are inadmissible because [the Applicant] did not exhaust internal remedies.” However, “the Applicant requests exceptional circumstances to justify the Applicant’s non-exhaustion of internal remedies.”

THE TRIBUNAL'S ANALYSIS AND CONCLUSIONS

WHETHER THE APPLICANT FILED HIS APPLICATION IN A TIMELY MANNER AND EXHAUSTED
INTERNAL REMEDIES

41. Article II(2) of the Tribunal's Statute sets out the requirements for admissibility of applications to the Tribunal. It states:

2. No such application shall be admissible, except under exceptional circumstances as decided by the Tribunal, unless:
 - (i) the applicant has exhausted all other remedies available within the Bank Group, except if the applicant and the respondent institution have agreed to submit the application directly to the Tribunal; and
 - (ii) the application is filed within one hundred and twenty days after the latest of the following:
 - (a) the occurrence of the event giving rise to the application;
 - (b) receipt of notice, after the applicant has exhausted all other remedies available within the Bank Group, that the relief asked for or recommended will not be granted; or
 - (c) receipt of notice that the relief asked for or recommended will be granted, if such relief shall not have been granted within thirty days after receipt of such notice.

42. In its jurisprudence, the Tribunal has emphasized the importance of the time limits prescribed by Article II(2)(ii). In *Agerschou*, Decision No. 114 [1992], para. 42, the Tribunal explained that the prescribed time limits are "important for a smooth functioning of both the Bank and the Tribunal." *See also Tanner*, Decision No. 478 [2013], para. 45. The Tribunal has also observed that the "long-delayed resolution of staff claims could be seriously complicated by the absence of important witnesses or documents, and would in any event result in instability and unpredictability in the ongoing employment relationships between staff members and the Bank." *Mitra*, Decision No. 230 [2000], para. 11.

43. Pursuant to Article II of the Tribunal's Statute, the Applicant had 120 days from the date of the "occurrence of the event giving rise to the application" to file an application. The Applicant received the notice of non-renewal of his term appointment on 1 July 2018. Therefore, the Applicant should have filed his Application or request for extension by 29 October 2018, 120 days after receiving notice. He did not do so. Instead, the Applicant first attempted to file his Application with the Tribunal on 26 September 2020, almost two years after the deadline. Based on these facts, the Applicant's claim of non-renewal of his term appointment was filed out of time.

44. Throughout its jurisprudence, the Tribunal has also underscored the importance of the requirement of exhaustion of internal remedies, which "ensures that the management of the Bank shall be afforded an opportunity to redress any alleged violation by its own action." *Ampah (Preliminary Objection)*, Decision No. 522 [2015], para. 55, quoting *Klaus Berg*, Decision No. 51 [1987], para. 30. Furthermore, the Tribunal has stressed in numerous decisions that a failure to observe time limits for the submission of an internal complaint or appeal is regarded as a failure to comply with the statutory requirement of exhaustion of internal remedies. *See, e.g., Alrayes (Preliminary Objection)*, Decision No. 520 [2015], para. 55; *Islam*, Decision No. 280 [2002], para. 7; *Peprah*, Decision No. 275 [2002].

45. With respect to the Applicant's other two claims regarding (i) his 2017 and 2018 performance reviews and (ii) the decision not to convert his term appointment to an open-ended appointment, the Applicant was required to exhaust internal remedies. With regard to the Applicant's 2017 and 2018 performance reviews, the Applicant was required to raise these claims first as a Request for Administrative Review and second as a Request for Performance Management Review pursuant to Staff Rules 9.06 and 9.07. He did not do so. Similarly, if the Applicant had wanted to challenge the decision not to convert his term appointment to an open-ended appointment, he should have submitted a timely claim to PRS pursuant to Staff Rule 9.03. The Applicant failed to do so. Therefore, the record clearly demonstrates that the Applicant failed to exhaust internal remedies with respect to his claims regarding his past performance reviews and non-conversion to an open-ended appointment, and, given the extended delay in the filing of these claims before the Tribunal, these claims are also out of time.

46. Furthermore, the Applicant expressly admits that he filed his Application out of time, stating, “The Applicant accepts that the claims are well beyond the Tribunal’s stipulated time limit and that there is rarely a justification for ignoring the time limit but [the Applicant] asks for extenuating circumstances” due to his illness.

47. Based on the foregoing, the Tribunal finds that none of the Applicant’s claims were filed in a timely manner. In addition, the Tribunal finds that the Applicant failed to timely exhaust internal remedies with respect to his claims relating to past performance and non-conversion to an open-ended appointment.

WHETHER THERE WERE EXCEPTIONAL CIRCUMSTANCES

48. Article II(2) provides an exception to the statutory requirement, allowing for the late filing of an application and failure to timely exhaust internal remedies on the basis of “exceptional circumstances.” In *BI (No. 4) (Preliminary Objection)*, Decision No. 540 [2016], para. 41, the Tribunal stated,

Article II(2) of the Tribunal’s Statute allows the Tribunal to render a claim or application admissible even if it was not filed in a timely manner, if the Tribunal decides that there were exceptional circumstances justifying the late filing.

49. Given that the record supports a finding that the Applicant did not file his Application in a timely manner and failed to exhaust internal remedies with respect to some of his claims, the next question to address is “whether there existed in the instant case exceptional circumstances” under Article II(2) of the Statute of the Tribunal. *Guya*, Decision No. 174 [1997], para. 4.

50. The Applicant has the burden to show that “exceptional circumstances” exist. *See Hristodoulakis*, Decision No. 296 [2003], para. 17. In *Nyambal (No. 2)*, Decision No. 395 [2009], para. 30, the Tribunal articulated its approach to cases where “exceptional circumstances” are at issue, stating:

The jurisprudence of the Tribunal is well-established regarding the treatment of exceptional circumstances. In all such cases the Tribunal has followed a strict

approach so as to prevent the undermining of statutory limitations. Exceptional circumstances cannot be based on allegations of a general kind but require reliable and pertinent “contemporaneous proof.”

51. In determining whether exceptional circumstances exist, the Tribunal takes into account several factors, including “the extent of the delay and the nature of the excuse invoked by the [a]pplicant.” *Yousufzi*, Decision No. 151 [1996], para. 28. In *Malekpour*, Decision No. 320 [2004], para. 22, the Tribunal stated that the circumstances invoked by an applicant must have imposed “real and serious impediments” to fulfilling the statutory requirements in Article II(2) of the Tribunal’s Statute, and not be a “[m]ere inconvenience.” *See also Hristodoulakis* [2003], para. 17.

52. The Tribunal has been duly sensitive in the past to the issue of health as an exceptional circumstance. *See Malik*, Decision No. 333 [2005], para. 29. As the Tribunal found in *Hristodoulakis* [2003], para. 17:

The Tribunal recognizes that health issues may constitute exceptional circumstances justifying assumption of jurisdiction over an application that has been filed in an untimely manner. (*See Mustafa*, Decision No. 195 [1998].) However, the [a]pplicant is required to allege and to prove these exceptional circumstances; mere inconvenience is not sufficient.

53. In the present case, the Applicant alleges that there were exceptional circumstances due to his illness – “late-onset frontal lobe epilepsy characterized by repeated seizures.” He asserts that he delayed filing his Application because he was “avoiding any stressful situations during this period in order to reduce his seizures.” The Applicant asserts that, “[u]ntil recently, the stress of taking on a Tribunal case would have exaggerated [his] condition.” The Applicant also asserts that he has been in “semi-regular contact” with the Tribunal since his departure from the Bank. In support of these claims, the Applicant offers (i) various reports of scheduled doctor visits from 2018, including one visit in November 2018 that states that the Applicant had a “grand mal seizure” on an unspecified date “while visiting family in Australia”; (ii) doctors’ notes confirming that he was hospitalized in May and October 2019 for five days each; and (iii) a cognitive test report and summary thereof by a doctor dated February and March 2021, respectively.

54. The Tribunal observes that the Applicant received notice of the non-renewal of his term appointment on 1 July 2018, and therefore had 120 days until 29 October 2018 to file his Application with the Tribunal. As a preliminary matter, the Tribunal observes that the medical evidence offered by the Applicant from 2019 and 2021 to prove exceptional circumstances pertained to medical events which occurred long after the 29 October 2018 deadline to file his Application, and therefore cannot be considered “contemporaneous proof” to excuse his failure to file an application or request for an extension of time during the relevant time period. Further, the Tribunal observes that the medical information provided by the Applicant from 2018 consists of general notes from scheduled doctor visits. The notes do not specify the date of the seizure, nor do the notes mention any limitations directly relevant to the issue, such as, for example, that his circumstances were such that he was not in a position to pursue an application before the Tribunal or simply file a request for an extension of time. As a whole, the evidence presented by the Applicant to prove exceptional circumstances is composed of “allegations of a general kind.” The Applicant offers no pertinent “contemporaneous proof” to demonstrate how his illness imposed “real and serious impediments” to his filing an application on time during the relevant time period between July and October 2018.

55. The Tribunal observes that the record demonstrates that the Applicant was actively communicating and organizing his affairs during the relevant period between June and October 2018. The record shows that, in August and September 2018, the Applicant corresponded with the Pension Administration team to make arrangements for his lump-sum pension withdrawal and other end of service benefits. Yet the Tribunal notes that the Applicant failed to submit an application during this period or even a request for extension. Furthermore, in the time after the relevant period, the Tribunal observes that the Applicant complied with the administrative process for receiving disability benefits, which were approved on 20 December 2018 (and applied retroactively to 26 November 2018), and also corresponded regularly with the Disability Administrator to maintain his STD status. The Tribunal observes that the Applicant’s active engagement with the aforementioned administrative processes is inconsistent with his assertion that filing an application would have been too “stressful.” Even if the Tribunal were to accept that a Tribunal proceeding would have been too stressful for the Applicant, there is no evidence in the

record to explain why the Applicant simply did not submit a request for extension in a timely manner.

56. Despite the Applicant's assertion that he has been in "semi-regular" contact with the Tribunal since his departure from the Bank, he has not, during the course of these proceedings, produced any documents supporting this assertion. Furthermore, the Tribunal observes that the Applicant's first contact with the Tribunal was on 15 December 2019, well beyond the application filing deadline.

57. Moreover, the Tribunal observes the nearly two-year delay between the Application deadline of October 2018 to challenge the non-renewal decision and the Applicant's first attempted filing of his Application in September 2020.

58. In view of the foregoing, the Tribunal finds that there are no exceptional circumstances excusing the late submission of the Application or failure to timely exhaust internal remedies.

DECISION

The Application is dismissed.

/S/ Andrew Burgess

Andrew Burgess

President

/S/ Zakir Hafez

Zakir Hafez

Executive Secretary

At Washington, D.C.,* 8 November 2021

* In view of the public health emergency occasioned by the COVID-19 pandemic and in the interest of the prompt and efficient administration of justice, the Tribunal conducted its deliberations in these proceedings remotely, by way of audio-video conferencing coordinated by the Office of the Executive Secretary.