Summary of FH (No. 2) v. IBRD (Preliminary Objection) Decision No. 676 [2022]

The Applicant challenged management's decision not to promote him in Fiscal Year 2020 (FY20) and further claimed retaliation and that he was not fairly graded.

The Applicant has worked with the World Bank Group since 2003 and is based in Beijing, China, as a Senior Information Technology Assistant at Grade Level GD. On 13 October 2020, the Applicant inquired with management whether he would be promoted in the FY20 performance evaluation cycle. On 16 October 2020, the Applicant was informed via email from management of the criteria upon which its "Promotion/Progression decisions" are made, and was told that management "d[id] not think that there was a case to be made for your promotion this year."

The Applicant filed a Request for Review with Peer Review Services (PRS) challenging the non-promotion decision. The PRS Panel dismissed the Applicant's Request for Review in its entirety, stating that it did not have jurisdiction to review his claim.

The Applicant filed his Application with the Tribunal. In his Application, the Applicant highlighted what he considers to be his contributions to his department, and contended that his contributions have not been recognized by management and that the Bank is not treating him fairly as required by the Principles of Staff Employment. The Bank raised a preliminary objection that the Applicant failed to state a plausible claim of the non-observance of his contract of employment or terms of appointment. In the Bank's view, there is no right to promotion from Grade Level GD to GF on the basis of performance as the Applicant contends; therefore, to the Bank, the Applicant's claim is outside of the Tribunal's jurisdiction.

The Tribunal found the "real issue" and "object of the claim" in this case to be the Applicant's challenge to his non-promotion from Grade Level GD in FY20. The Tribunal further observed that the Application is broader in scope than the Bank seeks to portray it, and considered that "[t]he Applicant is challenging the fairness of the decision not to promote him from Grade Level GD, rather than claiming a right to promotion from Grade Level GD to Grade Level GF as the Bank contends."

The Tribunal noted that the Applicant invoked Principle 2.1 of the Principles of Staff Employment, and it recalled that the Principles of Staff Employment form part of the "contract of employment or terms of appointment" of staff members. The Tribunal also found that the Applicant is challenging "a specific action or inaction by the Bank – the non-promotion decision." Further, the Tribunal recalled its jurisprudence regarding the scope of its subject-matter jurisdiction under Article II. In this regard, the Tribunal found that the Applicant has presented a plausible claim of violation of his contract of employment or terms of appointment and that the circumstances warrant an examination of the merits of his allegations. Accordingly, the Tribunal concluded that the Application met the jurisdictional requirements of the Tribunal.

Decision: The Bank's preliminary objection was dismissed.

This summary is provided to assist in understanding the Tribunal's decision. It does not form part of the reasons for the decision. The full judgment of the Tribunal is the only authoritative document. Judgments are available at www.worldbank.org/tribunal.