

Summary of Fitchie v. IBRD, Decision No. 670 [2022]

The Applicant challenged the decision of the Pension Benefits Administration Committee (PBAC) to deny his request to modify the quantum of his Optional Survivor Annuity Pension (OSP) election.

The Tribunal began its analysis by noting the established facts. The Tribunal next considered the requirements of the Staff Retirement Plan (the Plan), noting that the Applicant submitted the signed Form 2369 electing an OSP in favor of his ex-spouse within 180 days of the conclusion of his divorce, satisfying the requirements of Section 11.3(a)(i) of the Plan. The Tribunal further noted that the OSP election became effective one year later and observed that once it became effective the OSP election could no longer be revoked, having entered into force in accordance with the terms of Section 11.3(a)(i) of the Plan.

The Tribunal next considered the Applicant's contention that his OSP election could be modified even after it became effective because the Pension Administration (PENAD) had given its "unreserved agreement" to paragraph 27 of the Consent Order of the English High Court permitting the modification of the OSP election. In this respect, the Tribunal considered that PENAD's limited role in reviewing draft Court Orders for the purpose of expressing a view on their compatibility or otherwise with the Plan cannot and does not constitute a binding agreement that the Bank will take any particular course of action, nor does it establish an accord upon which the Applicant could rely. Further, the Tribunal considered that paragraph 27 of the Consent Order granted the Applicant the "liberty to apply" to a national court for a new order, but did not create any obligation on the Bank to accept the terms of the new order under the Plan.

The Tribunal next accepted the Bank's submissions with respect to the plain meaning of the word "irrevocable" – namely, that it refers to that which is "unalterable; committed beyond recall," "impossible to change," and "not possible to revoke: UNALTERABLE." The Tribunal found that there was no ambiguity in Section 11.3(a)(i) and concluded that the PBAC was entirely reasonable in its finding that the Plan prohibited any modification of the OSP election once it became effective. The Tribunal was further satisfied that permitting adjustments to an OSP election of the type requested by the Applicant could result in serious financial and legal risks or consequences to the Plan. The Tribunal next found the Applicant's contentions regarding fundamental breach, negligent misrepresentation, and breach of promise to be without merit and concluded that the PBAC properly interpreted the requirements of the Plan when it denied the Applicant's request to modify the OSP election.

Finally, the Tribunal considered that the PBAC process was fair and thorough, and found that the requirements of due process were observed.

Decision: The Application 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