

Summary of GO v. IBRD, Decision No. 668 [2022]

The Applicant challenged the Bank's decision not to select him for a Senior Operations Officer position (the Non-Selection Decision).

The Applicant contended that the Bank abused its discretion and violated his contract of employment or terms of appointment in three ways: (i) it failed to provide a reasonable and observable basis for the Non-Selection Decision; (ii) it failed to follow a fair and proper process in making the Non-Selection Decision; and (iii) it made the Non-Selection Decision in bad faith. The Tribunal then examined the Applicant's three main claims.

The Tribunal first considered whether there was a reasonable and observable basis for the Non-Selection Decision. Based on the submissions of the parties and the record, the Tribunal agreed with the Peer Review Services (PRS) Panel findings, including that the Selection Advisory Committee Interview Report contained statements that were not factual and that were misleading, and concluded that the Non-Selection Decision lacked a reasonable and observable basis.

The Tribunal next considered whether the Bank followed a fair and proper process in making the Non-Selection Decision. Based on the record and the findings of the PRS Panel Report, which included evidence of an inconsistent composition of the interview panel, an inadequate Interview Report, and a lack of documentation regarding the manner in which the hiring manager made his selection decision, the Tribunal concluded that the Bank failed to follow a fair and proper process in the selection process.

Last, the Tribunal considered whether the Non-Selection Decision was made in bad faith. While the Tribunal declined to make a determination on the claim of bad faith in this case, it noted the "universal obligation of both employee and employer to act in good faith towards each other." The Tribunal considered that the Applicant had demonstrated that he suffered harm from the convergence of individual actions taken and omissions made without good reason, adequate explanation, or apparent accountability. The Tribunal further considered that the failures on the part of the Bank, viewed collectively, constituted an egregious want of fairness towards the Applicant that was considered in its determination of additional compensation.

Decision: The Bank was ordered to pay the Applicant additional compensation in the amount of one and a half years' salary net of taxes inclusive of the amount (three months' salary net of taxes) already paid by the Bank following the PRS process. In other words, following the Tribunal's judgment, the Bank was ordered to pay the Applicant an additional fifteen months' salary net of taxes. The Bank was ordered to contribute to the Applicant's legal fees and costs in the amount of \$20,000.00. All other claims were dismissed.