

Summary of HB v. IFC (Preliminary Objection), Decision No. 691 [2023]

The Applicant challenged the 29 November 2021 determination that he was ineligible for an IFC Departmental Performance Award based on 2019 disciplinary sanctions which included ineligibility for salary increases for a period of five years. The IFC submitted preliminary objections to the Tribunal's jurisdiction.

The Tribunal first considered the IFC's objection as to the Tribunal's subject matter jurisdiction over the Applicant's claim. The Tribunal noted that the threshold issue for the Tribunal's subject matter jurisdiction was whether the Applicant had alleged a plausible claim of non-observance of his contract of employment, terms of appointment, or any other violation of his rights as a staff member. The Tribunal found that the Applicant had alleged a plausible claim and concluded that it had subject matter jurisdiction.

The Tribunal next considered whether the Applicant timely exhausted internal remedies. The Tribunal observed that the Peer Review Chair correctly dismissed the Applicant's Request for Review because the Applicant's claim related to the implementation of a disciplinary sanction in connection with an Ethics and Business Conduct Department investigation. The Tribunal found, though, that the Applicant was entitled to bring his claim directly to the Tribunal. In so finding, the Tribunal recognized that the issues raised by the Applicant were unique and considered that the Applicant took prudent action in filing his Request for Review with Peer Review Services (PRS). The Tribunal then observed that the content of the 29 November 2021 determination required consultation and interpretation. Until this interpretation was communicated to the Applicant, the ineligibility of the Applicant for a performance award was arguably not clear and, as such, not yet ripe for challenge. The Tribunal considered that, for jurisdictional purposes, the 29 November 2021 determination amounted to more than a reconfirmation of a previous decision. The Tribunal then found that, as the time limit to submit his Request for Review was tolled for a mediation attempt, the Applicant timely sought to exhaust internal remedies. The Tribunal further found that the Applicant was not required to seek Performance Management Review prior to filing his Application and concluded that the Applicant properly brought his Application before it.

The Tribunal finally found that the Application was timely. The Tribunal recalled that, on 18 April 2022, the Applicant timely filed a Request for Review with PRS. When PRS correctly dismissed the Applicant's Request for Review on 23 May 2022, the Applicant, having received an extension, timely filed his Application with the Tribunal.

The Tribunal accordingly dismissed the IFC's preliminary objections.

Decision: The IFC's preliminary objections were dismissed; the IFC was ordered to contribute to the Applicant's legal fees and costs in the amount of \$5,000.00 for the preliminary objection phase of the proceedings.

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