

## Summary of HP v. IFC, Decision No. 706 [2024]

In 2021, the Applicant accepted a three-year term appointment as a Country Officer with the IFC. Per the job posting and her Letter of Appointment, the position was to be based in Nairobi, Kenya. At the time, the IFC had a remote work policy in place due to the COVID-19 pandemic, the Telecommuting Emergency; and the Applicant worked remotely from Washington, D.C., where she had been undergoing treatment for health issues. In May 2022, the IFC began to end the Telecommuting Emergency and the Applicant sought to extend telecommuting for health reasons. In July 2022, the Applicant and her Manager had a performance review discussion and the Applicant claimed that the Manager became angry when she explained that her doctor did not clear her to return to Nairobi. In September 2022, the Manager relocated a Principal Country Officer to Kenya to perform the duties of Country Officer and to serve as the Applicant's Supervisor. In the following months, HR advised the Applicant that she needed to extend her telecommute in the system and to discuss it with management. The Applicant sought Administrative Review and Performance Management Review (PMR) of her Fiscal Year 2022 performance evaluation and filed a complaint against the Manager with the Ethics and Business Conduct Department (EBC).

In March 2023, the Applicant was notified that her position had become redundant. The Applicant went on Short-Term Disability (STD) effective March 2023. On 30 June 2023, the Manager emailed the Applicant and suspended the redundancy due to the Applicant's STD leave and informed the Applicant that her term appointment would not be extended "for the reason that your position has come to an end." The Applicant challenged the non-renewal decision as substantively unfounded, as improperly motivated by discrimination and hostility on the Manager's part for the Applicant's need to telecommute from D.C. due to medical need, and as retaliatory and procedurally flawed. She also challenged the EBC decision to close its preliminary inquiry and alleged the IFC failed to implement the PMR recommendations. The IFC asserted, *inter alia*, that its business needs required a Country Officer physically present in Kenya and that the relocation of the Supervisor met this need. The IFC further claimed that the Applicant never properly requested to telecommute through the HR system.

The Tribunal examined the IFC's duty to provide reasons for the non-renewal decision. The Tribunal recalled that the IFC rescinded its redundancy decision, and noted that the Applicant was not afforded the redundancy benefits of the Staff Rules. The Tribunal considered that the IFC was required to provide some information to the Applicant for her to understand the reasons for the non-renewal and found that the IFC did not meet this requirement. The Tribunal found, however, that the IFC's reason for the non-renewal was honest and not pretextual, and considered that the Applicant should have properly invoked any rules which may have excused her from relocating to Kenya but did not do so. The Tribunal found the non-renewal decision was not an abuse of discretion relating to the Applicant's health, and was satisfied that the decision was not improperly motivated by discrimination or hostility and was not retaliatory. The Tribunal was satisfied with the IFC's explanation for not yet implementing the PMR decision and urged the IFC to do so. The Tribunal was satisfied that the EBC decision to close its preliminary inquiry was reasonable.

**Decision:** The Applicant was awarded three months' net salary for the IFC's failure to provide sufficient reasons for the non-renewal decision and \$5,000.00 towards legal fees and costs.

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](http://www.worldbank.org/tribunal).