Summary of HQ v. IBRD, Decision No. 707 [2024]

The Applicant challenged the determination made by the Vice-President, Human Resources (HRVP) that he committed misconduct in the form of sexual harassment and the disciplinary measures imposed therein. The HRVP imposed the following disciplinary measures: termination, a bar to rehire, an access restriction, written censure, and placement on the United Nations (UN) Clear Check database. The Applicant resigned before the termination sanction went into effect.

The Tribunal began by noting that, effective 17 May 2023, the Principles of Staff Employment were amended establishing a preponderance of the evidence standard of proof for misconduct. The Tribunal determined, though, that as the acts forming the basis of the complaints in the Singapore Office occurred prior to 17 May 2023, it would review the present case in light of the substantial evidence standard.

The Tribunal next considered the existence of the facts, recalling that the Ethics and Business Conduct Department (EBC) found that the Applicant engaged in sexual harassment and in a pattern of unwelcome inappropriate behavior of a sexual nature in the Singapore Office. The Tribunal considered that the following behaviors were found by EBC to have supported its findings regarding the Applicant's conduct: (i) inappropriate physical contact; (ii) comments about appearance or physical characteristics; (iii) questions and comments on private matters that some found intrusive; and (iv) other inappropriate questions or comments that made staff members uncomfortable. Based on the totality of the evidence, the Tribunal found that EBC was reasonable in finding that the Applicant engaged in the above behaviors and that these behaviors had a negative impact on the staff in the Singapore Office.

The Tribunal then considered whether the established facts legally amounted to misconduct. The Tribunal determined, based on the totality of the evidence, that the Applicant's established behaviors were reasonably considered sexual in nature; that the Applicant knew, or should have known, that his behaviors were unwelcome; and that the Applicant's conduct created an environment that became offensive when he visited the Singapore Office. The Tribunal thus concluded that the established facts legally amounted to misconduct under the Staff Rules.

In considering whether the sanctions imposed were significantly disproportionate to the misconduct found, the Tribunal first determined that the Applicant could not challenge the sanction of termination as he resigned before the sanction went into effect. The Tribunal next determined that the bar to rehire, access restriction, and written censure were not significantly disproportionate. The Tribunal found, though, that it could not uphold the Applicant's placement on the UN Clear Check database as, at the time of the misconduct determination, the Bank had not issued any policy decision regarding its participation in the program.

Finally, the Tribunal determined that the requirements of due process were observed.

Decision: The Tribunal ordered the Bank to (1) not place the Applicant's name into the UN Clear Check database; and (2) contribute to the Applicant's legal fees and costs in the amount of $25,000.00. All other claims were 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.