Summary of HS v. IBRD (Preliminary Objection), Decision No. 709 [2024]

The Applicant challenged the (i) decision to declare his position redundant, (ii) "series of decisions amounting to career mismanagement leading up to the redundancy decision," (iii) decision to place him in a "temporary" position slated for redundancy (the temporary assignment claim), (iv) decision to "subject [the Applicant] to various forms of managerial misconduct" (the misconduct claim), (v) decision to not shortlist the Applicant for certain positions in the Fiscal Year (FY) 2022 (FY22) batch rotation exercise of the Water Global Practice (GP), and (vi) decision to exclude the Applicant from the Water GP's FY22 and FY23 batch rotation exercises (non-inclusion claims).

The Bank filed preliminary objections challenging the admissibility of the Applicant's (i) FY23 non-inclusion claim, (ii) temporary assignment claim, and (iii) misconduct claim made to the Ethics and Business Conduct Department (EBC), on various grounds of untimeliness and failure to exhaust internal remedies.

First, the Tribunal considered whether the Applicant timely filed his FY23 non-inclusion claim with Peer Review Services (PRS) and exhausted internal remedies. The Tribunal agreed with the Peer Review Panel's decision to dismiss the claim as untimely, and thus concluded that the Applicant did not file his FY23 non-inclusion claim in a timely manner and therefore failed to timely exhaust internal remedies.

Second, the Tribunal considered whether there were exceptional circumstances to excuse the late filing of the FY23 non-inclusion claim. Based on the record, the Tribunal found that there were no exceptional circumstances excusing the late submission of the Applicant's FY23 non-inclusion claim to PRS. Consequently, the Tribunal found that the Applicant failed to exhaust internal remedies due to untimeliness.

Third, the Tribunal found that it need not decide whether the Applicant exhausted internal remedies with respect to the temporary assignment decision in view of the Applicant's clarification that he was not challenging the temporary assignment decision as a standalone claim and the parties' agreement that his redundancy claim was timely.

Finally, the Tribunal considered whether the Applicant timely filed his misconduct claim with the Tribunal. The Tribunal found that the 17 April 2024 decision by EBC not to reopen the case was not a mere confirmation of its December 2022 closure decision, but rather a new decision based on its review of evidence newly submitted by the Applicant. Thus, the Tribunal observed that, following receipt of EBC's new decision not to reopen the case, the Applicant timely filed his Application with the Tribunal on 13 May 2024, within 120 days of the EBC decision. Based on the foregoing, the Tribunal found that the Applicant's misconduct claim was timely.

Decision: The Tribunal accepted jurisdiction over the Applicant's misconduct claim. The Tribunal dismissed the Applicant's FY23 non-inclusion claim as inadmissible due to failure to timely exhaust internal remedies.