

Summary of Marafie v. IBRD, (Preliminary Objection) Decision No. 684 [2022]

The Applicant challenged the Bank's decision not to select her for an Operations Analyst position. The Bank submitted preliminary objections on the basis of lack of standing.

The Bank contended that the Applicant lacked standing to submit her Application to the Tribunal because, at the time of the non-selection decision, the Applicant was not employed with the Bank and was not a staff member with an appointment pursuant to Staff Rule 4.01. The Bank further contended that the Applicant did not allege the non-observance of her contract of employment or terms of appointment, nor did she allege that some illegality had been committed. Finally, the Bank contended that, although it is accepted that former staff members may bring applications to the Tribunal, they must allege a breach or non-observance of their contract of employment or terms of appointment, which the Applicant in this case failed to do.

The Applicant contended that she had standing to bring her Application because, as a former consultant at the Bank, she fit within the description of the expression "member of the staff" cited in Article II(1) of the Tribunal's Statute and defined in Article II(3) as "any current or former member of the staff of the Bank Group." Further, the Applicant contended that, although she did not have a contractual relationship with the Bank at the time of the non-selection decision, the Tribunal had jurisdiction to review her Application because it alleged the non-observance of pertinent regulations and rules in force within the meaning of Article II(1) of the Tribunal's Statute. Finally, the Applicant asserted that her Application was subject to the jurisdiction of the Tribunal because she sufficiently demonstrated in her pleadings that the non-selection decision may have been a result of her previous employment with the Bank.

The Tribunal first considered whether the Applicant fit within the definition of "member of the staff" as set out in Article II(3) of the Tribunal's Statute, which is one of the requirements for standing under Article II(1). Based on the record, the Tribunal was satisfied that this particular requirement for standing was met. Nevertheless, the Tribunal noted that meeting the requirement of "member of the staff" was not sufficient in itself to establish standing before the Tribunal under Article II(1) of the Tribunal's Statute. The Tribunal noted that a staff member must also allege "non-observance of the contract of employment or terms of appointment of such staff member."

The Tribunal next considered whether the Applicant, as a former staff member, alleged non-observance of her contract of employment or terms of appointment pursuant to Article II(1) of the Tribunal's Statute. Based on the record, the Tribunal found that the Applicant had not satisfied the requirement in Article II(1) of the Tribunal's Statute that requires a "member of the staff" to allege non-observance of their contract of employment or terms of appointment. As such, the Tribunal stated that it was not in a position to hear and pass judgment upon the Application pursuant to Article II(1) of the Tribunal's Statute.

Decision: The Application was 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