

## Summary of Rofman v. IBRD, Decision No. 669 [2022]

The Applicant challenged the Pension Administration's "failure to fully account for the pensionable Special Compensation Measures [SCM] pay [the Applicant] received during his final three years of Bank service when calculating [the Applicant's] Defined Benefit Pension amount."

The Tribunal first considered whether the Highest Average Net Salary (HANS) methodology for incorporating SCM into the Defined Benefit Pension was an abuse of discretion. The Tribunal determined first what the SCM policy requires with respect to pensionability and second whether the HANS methodology violates that policy, noting that there was nothing in the SCM policy – whether the Staff Rule, Procedure, or the Staff Retirement Plan (the Plan) – which stated that Depreciation SCM must be fully pensionable. The Tribunal observed that the only mention of Depreciation SCM pensionability is in the definition of net salary in the Plan. Nothing in this definition, however, explained how "certain depreciation special compensation measures" were to be incorporated into net salary. The Tribunal thus considered that, while the SCM policy required that Depreciation SCM be incorporated into net salary for pension calculations, it was silent as to the method of implementation. The Tribunal further determined that the HANS methodology was not arbitrary, discriminatory, improperly motivated, reached without fair procedure, or in violation of the contract of employment or the terms of appointment of the staff member and therefore found that the Bank did not abuse its discretion in the methodology's development.

The Tribunal next considered whether the decision by the Pension Benefits Administration Committee (PBAC) denying the Applicant's request to recalculate his pension benefits incorporating the SCM payments was reasonable. The Tribunal found that the PBAC properly interpreted the Plan when it denied the Applicant's challenge to the HANS methodology and further found that the requirements of due process were observed.

Finally, the Tribunal considered that, while the Applicant did not prevail in his claims, his efforts in raising this matter before the Tribunal presented the Tribunal with an opportunity to provide clarity on pension matters which may affect hundreds of Plan beneficiaries. The Tribunal considered that this judgment served to offer clarity to those staff members with respect to their pension benefits in respect of SCM, which the Tribunal noted benefits both those staff members and the Bank. Some contribution to the Applicant's legal fees and costs was thereby warranted.

**Decision:** (1) The Application was dismissed; and (2) The Bank was ordered to contribute to the Applicant's legal fees and costs in the amount of US\$10,000.00.