Summary of Moss v. IBRD (Preliminary Objection), Decision No. 571 [2017]

The Applicant challenged the following: (i) denial of her request for Compensatory Leave, (ii) failure to follow proper procedures regarding her reassignment, (iii) that her new job description of Office Manager is not in line with the Bank’s guidelines, and (iv) irregularities in her FY2015 mid-year performance review, which also constitute retaliation.

The parties agreed that the Applicant’s claim concerning her FY2015 mid-year performance review is properly within the Tribunal’s jurisdiction. The Bank filed a preliminary objection regarding the Applicant’s other claims.

With respect to the denial of compensatory leave, the Tribunal found that the Applicant did not request review of this decision to Peer Review Services (PRS), thereby failing to exhaust internal remedies. Moreover, even if this claim could be construed as part of her Request for Review to PRS, it would have been time-barred and thus would have been a failure to exhaust internal remedies. Regarding the reassignment, the Tribunal found that the Applicant did not file her Request for Review to PRS in time. The Tribunal also found that a plain reading of the Applicant’s Request for Review did not reflect that she asked PRS to review the job description of Office Manager in light of the Bank’s guidelines. As well, the Tribunal held that even if the Applicant’s complaint regarding the job description of Office Manager were to be construed as part of her overall challenge against the reassignment, PRS was correct in declining jurisdiction over the claim regarding the reassignment because it was submitted after the deadline.

Finally, the Tribunal found that there were no exceptional circumstances in this case that would justify a late filing. The Applicant’s meetings and communications with various staff members did not satisfy the requirement that she exhaust all internal remedies before coming to the Tribunal. Nor was there anything in the record that suggested that the Applicant would have been adversely affected by filing a request for review to PRS. Her increased workload did not constitute “exceptional circumstances,” as understood by the Tribunal in its jurisprudence. The Tribunal noted that the record did not contain any contemporaneous medical documentation for the relevant period, when the Applicant should have filed a request for review, that would indicate that the Applicant suffered from a medical condition to such an extent that she was unable to file a request for review.

Decision: The Tribunal upheld the Bank’s preliminary objection with respect to the Applicant’s claims regarding: (i) denial of her request for Compensatory Leave, (ii) failure to follow proper procedures regarding her forced reassignment, and (iii) that her new job description of Office Manager is not in line with the Bank’s guidelines. The Tribunal found that the Applicant’s claim regarding irregularities in her FY2015 mid-year performance review was filed in a timely manner.

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