

Summary of FR v. IFC, (Merits) Decision No. 651 [2021]

The Applicant submitted his Application challenging “the process for the selection of the person to lead the Coordination Unit, [the Applicant’s] non-selection to lead the Coordination Unit, as well as his demotion and removal from leadership.” The Applicant contended that Mr. X was preselected by the IFC Vice President (VP) for the position of Head of the Coordination Unit (CU) and that this preselection led to the Applicant’s non-selection for the position and the Applicant’s effective demotion, which constituted an abuse of managerial discretion by the IFC. The Applicant claimed that he did not apply for the position of Head of the CU in reliance on promises from the VP that the Applicant would be proposed for progression at the next promotion cycle and that he would remain a member of the leadership team. The Applicant also contended that IFC management improperly disclosed confidential documents in the context of the Applicant’s Request for Review with Peer Review Services (PRS).

The IFC asserted that the selection process for the position of Head of the CU was fair and reasonable and not an abuse of discretion, and that Mr. X was chosen because he was the most qualified candidate in the context of a competitive selection process. The IFC contended that the Applicant was not demoted, but instead had a changed work program due to the creation of the CU, and noted that the Applicant maintained grade level and received salary increases. The IFC also submitted statements from the Applicant’s Director and the VP. The VP denied making the alleged promises regarding the Applicant’s career and denied preselecting Mr. X. The Director stated that he did not inform the Applicant that the VP had preselected Mr. X. The IFC also contended that the disclosure of documents during the PRS process was permissible.

The Tribunal reiterated that the decision to select a staff member for a position is within the IFC’s discretion and is reviewed by the Tribunal for abuse of discretion. The Tribunal observed that the statements from the Director and the VP directly refuted the Applicant’s claims that the VP preselected Mr. X for the position of Head of the CU. On review of the record as a whole, the Tribunal found it could not conclude there was a preselection or improper motivation on the part of IFC management with respect to the Head of the CU position. Further, the Tribunal concluded that the position had been filled through a reasonable process and followed proper procedure, noting that the position had been advertised for over two weeks and that three of eleven candidates were shortlisted and interviewed by senior staff members who documented the interview process.

The Tribunal explained that, for the existence of a promise, “the record must show either an ‘unequivocal’ statement which amounts to a promise or circumstances which lead to the ‘unmistakable implication’ that a promise was made.” *EM*, Decision No. 578 [2018], para. 63. The Tribunal noted that it “must rely on the evidence in the record before it” and concluded that the record did not support a finding of a promise. The Tribunal also found that the changes to the Applicant’s work program and his removal from leadership had a reasonable basis in the creation of the CU and in changes in the Applicant’s Vice-Presidential Unit, and did not constitute an abuse of managerial discretion by the IFC. Finally, the Tribunal considered the Applicant’s claim of improper disclosure of documents in the context of his PRS proceedings and reinforced the PRS Panel’s recommendation that senior management consider appropriate actions to address the

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Applicant's concerns regarding potential retaliation. The Tribunal found that, at this time, there was no material harm to the Applicant.

Decision: The Application was dismissed.