

Summary of GJ v. IBRD, (Preliminary Objection) Decision No. 663 [2021]

The Applicant challenged (i) the non-extension of his fixed-term (term) appointment while he was on Short-Term Disability, (ii) his 2017 and 2018 performance reviews, and (iii) the decision not to convert him to an open-ended appointment. The Bank submitted preliminary objections to the Application on the basis of untimeliness and failure to exhaust internal remedies.

The Tribunal first considered whether the Applicant, with respect to his non-extension claim, filed his Application in a timely manner pursuant to Article II of the Tribunal's Statute, which grants applicants 120 days from the date of the "occurrence of the event giving rise to the application" to file an application. The Tribunal found that the Applicant filed his Application out of time, noting that the Applicant (i) first attempted to file his Application "almost two years after the deadline" and (ii) expressly admitted to filing his Application out of time.

The Tribunal next considered whether the Applicant exhausted internal remedies with respect to his two other claims relating to his performance reviews and non-conversion to an open-ended appointment. The Tribunal found that the Applicant failed to exhaust internal remedies with respect to the performance review claims because he never submitted a Request for Administrative Review in the first instance or a Request for Performance Management Review in the second instance, in violation of Staff Rules 9.06 and 9.07. The Tribunal found that the Applicant failed to exhaust internal remedies with respect to his claim regarding non-conversion to an open-ended appointment because he did not submit this claim to Peer Review Services pursuant to Staff Rule 9.03. Additionally, the Tribunal found that, given the extended delay in filing these two claims, the claims were also out of time.

Finally, the Tribunal considered whether there were exceptional circumstances to excuse the late filing of the Application and failure to exhaust internal remedies. The Applicant alleged that there were exceptional circumstances due to his illness – "late-onset frontal lobe epilepsy characterized by repeated seizures." He asserted that he delayed filing his Application to avoid stressful situations that would have "exaggerated" his condition. He presented medical documentation in support of these contentions. Based on its review and analysis of the supporting documents, including the dates and content thereof, the Tribunal found that the Applicant offered no pertinent "contemporaneous proof" to demonstrate how his illness imposed "real and serious impediments" to his filing a timely Application during the relevant time period. Further, the Tribunal found that the Applicant's active engagement and compliance with other administrative processes during the relevant time, including with the Bank's Pension Administration and the Disability Administrator, were inconsistent with his assertion that filing a Tribunal application would have been "too stressful." The Tribunal also found no evidence in the record to explain why the Applicant did not submit a request for extension, particularly since he asserted that he had been in "semi-regular" contact with the Tribunal since his departure from the Bank.

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.