

Summary of GK v. World Bank Group, Decision No. 665 [2021]

The Applicant challenged (i) the decision of the Vice President, Human Resources that he committed misconduct by failing to cooperate with the Integrity Vice Presidency (INT) investigation in violation of Staff Rule 8.01, paragraphs 2.01(a)–(c) and 4.06, and (ii) the imposition of disciplinary sanctions therein.

The Tribunal began by reiterating that the respondent organization bears the burden of proof in misconduct cases and must meet the requisite standard of substantial evidence and that this is more than a balance of probabilities. The Tribunal then reviewed the evidence which the Bank submitted to determine whether it rose to the standard of substantiality necessary to discharge the Bank's burden of proof.

The Tribunal first found that the record was clear that the Applicant was not forthcoming in his responses to INT regarding his siblings and that the Applicant failed to be forthcoming and truthful in his responses regarding his relationships with individuals associated with Company X and in his production of relevant emails with Company X associates. The Tribunal next found that the Applicant likely deleted, but only partially restored, relevant data on his iPhone and that, in doing so, the Applicant tampered with and deleted evidence relevant to INT's investigation. The Tribunal then found that the Bank had not provided sufficient evidence to establish that the Applicant misrepresented his financial records with respect to the noted gap in banking activity, but also found that the Applicant failed to provide adequate personal financial records to INT.

The Tribunal next considered whether the established facts legally constituted misconduct. Noting that the Applicant not only was being uncooperative but, rather, took steps that actually prevented INT from completing its investigation, the Tribunal found that there was substantial evidence in the record to establish that the Applicant committed misconduct by failing to cooperate with an INT investigation. Next, having considered the seriousness of the matter, any extenuating circumstances, the situation of the staff member, the interests of the Bank Group, and the frequency of conduct for which disciplinary measures may be imposed, as well as the Bank's document production and the Applicant's comments thereon, the Tribunal found that the sanctions imposed in the case were proportionate to the misconduct found.

The Tribunal finally considered the Applicant's contention that INT abandoned the presumption of innocence to which he was entitled as a matter of due process by alleging that he had not cooperated with the investigation. The Tribunal noted that, whereas every staff member enjoys the presumption of innocence, they are nevertheless obliged not to frustrate or deliberately impede a legitimate investigation into misconduct. Accordingly, the Tribunal found that the conclusion that the Applicant committed misconduct in the form of noncooperation did not violate the Applicant's due process rights.

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.