

Mpoy-Kamulayi (No. 10) v. IBRD, Decision No. 490 [2014]

In October 2008, the Applicant requested the Bank review his salary. He believed it to be unjustifiably low. Subsequently, the Bank determined his salary was “within the expected range.”

In July 2011, the Applicant filed an application before the Tribunal challenging the Bank’s refusal to adjust his salary. In the ensuing case, *Mpoy-Kamulayi* (No. 5), Decision No. 463 [2012], one of the Applicant’s principal contentions was that, in conducting a review of his salary in early 2009, the Bank should have compared it with that of other practicing lawyers employed by the Bank Group. The Bank had not done so.

In a June 2012 judgment, the Tribunal ordered the Bank, within 60 days of delivery of the judgment, to “undertake a review of the Applicant’s salary as of February 2009 and include, along with other factors, a comparison of the Applicant’s salary against that of other Lead Counsel (level GH) in the World Bank Group, determine whether the Applicant’s salary was properly positioned, and if it was not, provide an appropriate remedy.”

In a September 2012 letter, the Bank stated that it had implemented the Tribunal’s judgment and determined “[t]here [was] no evidence, or any basis to believe, that the Applicant’s salary in February 2009 was unreasonably low.” In subsequent letters to the President of the Tribunal, the Applicant contended that the Bank had failed to comply with the terms of the judgment. The Bank refuted this.

In a December 2012 letter, the Tribunal informed the Applicant that, on consideration of the letters that he and the Bank had submitted, the Tribunal had concluded that the Bank’s review of the Applicant’s salary was consistent with the June 2012 judgment. Accordingly, the Applicant’s requests for further relief were denied.

In the present case, the Applicant challenged the “decision notified by the [Bank] to the Tribunal on September 17, 2012 refusing to adjust [his] salary” following the June 2012 judgment. The Bank filed a preliminary objection to the Application. This judgment addressed that objection.

The Tribunal noted that it had considered the Applicant's objections to the Bank's September 2012 determination, and also received submissions from the Bank, before deciding, as stated in its December 2012 letter, that the Bank's actions were consistent with the intent of the June 2012 judgment. The Tribunal held that by the terms of Article XI of the Tribunal's Statute, this decision was final and without appeal. After careful consideration of the Applicant's arguments, the Tribunal concluded that the Application in this case constituted a request to revise this decision.

The Tribunal observed that Article XIII of the Tribunal's Statute provides the only exception to the rule that the Tribunal's judgments are final and without appeal. As the Applicant did not suggest that he had discovered a previously unknown fact that might have had a decisive influence on the earlier judgment, the Tribunal concluded that the requirements of Article XIII had not been met.