

Sekabaraga (No. 2) v. IBRD, Decision No. 496 [2014]

The Applicant raised numerous claims of, among other things, discrimination, harassment and retaliation during his appointment with the Bank. Following an exchange of pleadings on a preliminary objection filed by the Bank, in Decision No. 494 [2014], the Tribunal held four of the Applicant's claims, involving allegations of discrimination and retaliation, to be admissible. This judgment accordingly addressed the merits of the Applicant's claims that the Bank discriminated against him: (i) in the designation of his duty station in 2012; (ii) by not shortlisting him for the position of Sector Director (HDNHE); (iii) by delaying clearance for mission travel to Rwanda and Kenya; and (iv) by retaliating and discriminating against him when it decided not to renew his Term appointment. The Applicant did not identify an alleged prohibited ground of discrimination in respect of these claims, save for the claim relating to non-renewal of his Term appointment in respect of which he alleged discrimination on grounds of race as well as retaliation.

Principle 2.1 of the Principles of Staff Employment provides that the Bank "shall not differentiate in an unjustifiable manner between individuals or groups within the staff." Staff Rule 3.00 ("Office of Ethics and Business Conduct (EBC)"), paragraph 6.01(e) makes clear that wrongful discrimination by Bank staff members including "on the basis of age, race, color, sex, sexual orientation, national origin, religion or creed" constitutes prohibited misconduct. Staff Rule 3.01 ("Standards of Professional Conduct"), paragraph 4.01 states that supervisors' treatment of staff shall not be influenced by "the race, nationality, sex, religion, political opinions or sexual orientation of the supervisor or the staff member."

Contrary to the Applicant's allegations, the record supported a finding that the HSS hubs (in which he worked) were closed for budgetary reasons following a decision made by the Bank's senior management. There was also some evidence of uncertainty about the availability of continued funding for the Applicant's Coterminous Term appointment after 1 April 2013. Nothing in the record suggested that the Bank's reference to these budgetary issues and the closure of the HSS hubs was a pretext for discrimination against the Applicant.

The record indicated that the principal factors behind the decision not to offer the Applicant reassignment to Washington, DC in 2012 were that his coterminous appointment was dependent on external funding (the continuance of which was in doubt after 1 April 2013) and that he had not been undertaking Work Program Agreement (WPA) funded work. These factors were related to the Bank's business needs and did not relate to any prohibited grounds. The Tribunal observed, however, that it was not clear from the record that the Applicant's managers ensured he received a clear explanation as to why certain of his colleagues were offered reassignment to Washington, DC when he was not, and that clear written explanations to staff in such situations would limit possible misperceptions of unfair treatment.

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

The Applicant also contended his appointment was terminated in retaliation for a report of favoritism and mismanagement he had made to the Bank's Integrity Vice Presidency (INT). The Applicant did not refer to any circumstances supporting this allegation other than the fact that he received a message from his Sector Manager saying that his appointment would not be renewed. The Tribunal considered nothing in the record suggested any connection between these two events. The absence of reference to other facts supporting the Applicant's belief was suggestive of speculation rather than a belief based on reasonable grounds. The Tribunal concluded that the evidence in the record established clearly and convincingly that the decision not to renew his appointment would have been taken absent his report to INT.

The Tribunal recalled that in its decision on the preliminary objection in this case, it noted that a complaint by the Applicant to the Office of Ethics and Business Conduct (EBC) could ensure a more complete factual record and make an important contribution to a proper consideration of what may be a factually complex background to a retaliation claim. It also noted that, in appropriate cases, the Tribunal may suspend proceedings before it to allow for EBC review. No application to suspend these proceedings was received.

The Tribunal concluded that the record did not support the Applicant's remaining claims. The Application was dismissed.