

Al-Muthaffar v. IBRD, Decision No. 502 [2014]

After holding several Short Term and Extended Term Consultant appointments, the Applicant was offered a Coterminous Term appointment at the Bank's West Bank and Gaza Country Office in November 2009 which was extended every year until 31 December 2013. On 1 July 2013, despite her expectations that her contract would be extended for one additional year, the Applicant received written notice that her contract would not be extended beyond 31 December 2013. The Applicant applied for another advertised position but was not selected. On 11 December 2013, she filed a request for review with Peer Review Services (PRS) challenging both the non-extension of her employment contract and her non-selection to the advertised position. PRS found that it had no jurisdiction to review the claims relating to the non-extension of the Applicant's contract. The Applicant filed an Application with the Tribunal challenging, among other things, the decisions not to extend her employment contract and not to select her to the advertised position. The Bank raised a preliminary objection claiming that the Applicant had not satisfied the requirements for admissibility of applications set out in Article II(2) of the Statute of the Tribunal or the time limits set out by Staff Rule 9.03 ("Peer Review Services").

The Tribunal found that: (i) the Applicant did not exhaust internal remedies in a timely manner with regard to her claim of non-extension of her appointment; (ii) the Applicant had not produced any evidence in support of the circumstances and false reasons she claimed to have discovered in relation to the non-extension decision; (iii) even if such circumstances and false reasons existed, her claim of abuse of discretion in the non-extension of her appointment would be a challenge to the Bank's decision not to extend her appointment, contrary to her expectation, as to which the Applicant should have exhausted internal remedies in a timely fashion; (iv) what is a timely manner is delimited by the time limit stipulated in the Staff Rules for the pursuit of internal remedies which, in this case, was triggered at the time at which the Bank's decision not to extend her appointment was first notified to the Applicant; that is the *dies a quo* and it is not changed by assertion of a subsequent discovery of circumstances or allegedly false reasons given for the Bank's decision; (v) the Applicant's recourse to the Ombuds Services Office did not operate to extend the time limit for the filing of her request for review before PRS; (vi) the Applicant had not presented exceptional circumstances which would justify relief from or suspension of the requirement of exhaustion of internal remedies or evidence of an agreement with the Bank to allow her to submit her claim directly to the Tribunal; (vii) PRS arrived at the proper decision regarding its jurisdiction and competence on the Applicant's challenge of the non-extension of her contract of employment when it found that the Applicant had failed to bring her request for review in a timely manner and that it, therefore, had no jurisdiction to review her claim; and (viii) the Applicant's claim of non-selection to the advertised position was still pending for review before PRS and was therefore not ripe for adjudication. The Tribunal dismissed the Application.