



World Bank Administrative Tribunal

Home Contact Search

Decisions

L (No. 2) v. IBRD

Sort
by: Title No# Date

Decision No. 379

L (No. 2),
Applicant

v.

International Bank for Reconstruction
and Development,
Respondent

1. This judgment is rendered by a Panel of the Tribunal established in accordance with Article V(2) of the Tribunal's Statute, and composed of Jan Paulsson, President, and Judges Stephen M. Schwebel and Francis M. Ssekandi. The application was received on 14 August 2007. The Applicant's request for anonymity was granted on 12 September 2007. The Bank raised a jurisdictional objection which is the sole matter decided by this judgment.

Factual Background

2. The Applicant joined the Bank in 1988 and retired in 2005. At the time of his retirement he was a senior manager.

3. The Bank's Department of Institutional Integrity (INT) conducted two investigations into the Applicant's alleged misconduct during his tenure at the Bank. The two investigations lasted from 2005 to 2007. They resulted in two misconduct decisions of the Vice President of Human Resources (HRSVP), one dated 8 January 2007 and the other 17 April 2007, finding that the Applicant had engaged in misconduct and permanently barring him from future Bank employment and from access to Bank premises.

4. In his decision of 8 January 2007, the HRSVP concluded *inter alia* that:

I have reviewed the lengthy and exhaustive Final Report I have full discretion to disagree with the findings and conclusions of INT, there is no basis for doing so here.

You purchased shares of stock in companies that had then-current or prospective business interests in your ... Unit. Further, you failed to recuse yourself from personal involvement in Bank activities involving at least one of these business entities – which at the very least creates the impression that you affected their financial interests. These actions constitute a serious conflict of interest and a breach of your obligation under the Principles of Staff Employment to adhere to a high degree of integrity and concern for the interests of the Bank Group and to avoid situations and activities that might reflect adversely on the Bank Group, compromise its operations or lead to real or apparent conflicts of interests. Moreover, there is reasonably sufficient evidence showing that you purchased some of the shares of stock under preferential terms.

...

Since you have left the services of the Bank, I have decided pursuant to Staff Rule 8.01, section 4, that the appropriate disciplinary measure is to permanently bar you from future employment within the World Bank Group. In addition, you will be prohibited from access to all World Bank Group facilities, absent exceptional circumstances as decided by the Vice President, Human Resources.

5. In his decision of 17 April 2007, the HRSVP concluded *inter alia* that:

The INT report reveals that while you were ... at the World Bank, (a) you personally intervened and advocated for the [X] company ... to serve as a Bank vendor of information technology consulting services, (b) over the course of at least three years, you orchestrated a business relationship between the Bank and [the X company] which favored and enabled [the X company] to become the beneficiary of 32 sole-sourced contracts and/or purchase orders from the Information Solutions Group at the World Bank, and (c) you sought to benefit and further a business relationship between [the X company] and a staff member who was formerly in your ... [Unit] and who continued for some time to work for you as a short term consultant. Based on the evidence of record, I have concluded that in doing so, you failed to discharge your duties "solely with the interests and objectives" of the World Bank in view as required by Principle 3 of the World Bank Principles of Staff Employment.

...

In the case at hand, I conclude that the findings of misconduct I outline above provide a separate, independent basis to impose discipline. Because you have terminated Bank service, the discipline imposed in connection with this matter will be to permanently bar you from future employment within the World Bank Group and to prohibit you from access to all World Bank Group facilities, absent exceptional circumstances as decided by the Vice President, Human Resources.

6. While the INT investigations were under way, the Washington Post and the U.S. News & World Report, respectively in January and September of 2006, published articles mentioning the Applicant's name in reference to INT's ongoing investigations into allegations against him. The Applicant claims that he asked the Bank at least seven times to investigate the source of the leaks to the news sources. He asserts that his requests were ignored by INT; that the Bank thus failed to protect his rights to privacy and confidentiality; and that in so failing it violated his due process rights.

7. In April 2007, after the disciplinary proceedings against him had concluded, the Applicant sought the Bank's consent to file an application directly with the Tribunal pursuant to Article II, paragraph 2, of the Statute of the Tribunal. The Bank agreed to his request on 26 April 2007, in the following terms:

The Bank agrees to [the Applicant's] request to proceed directly to the Tribunal to challenge the decisions of [the HRSVP] dated January 8, 2007 and April 17, 2007, regarding misconduct findings and disciplinary measures imposed on [the Applicant] ("Misconduct Decisions"). This agreement is limited to the Misconduct Decisions only and does not include any other decisions, actions or alleged omissions by the Bank, or any other allegations that could be made by [the Applicant] ("Other Claims"). If [the Applicant] wishes to raise Other Claims, he must first exhaust remedies with the Appeals Committee, or obtain agreement from the Bank to proceed directly to the Tribunal, in a timely manner. In addition, this agreement is without prejudice to any defenses that the Bank might have to [the Applicant's] claims regarding the Misconduct Decisions, including lack of timeliness or failure to state a claim properly cognizable by the Administrative Tribunal of the Bank.

The Bank will not oppose [the Applicant's] request to file a single Application with regard to both Misconduct Decisions within 120 days from April 17, 2007, the time allowed under Article II(2) of the Tribunal's Statute for filing an Application.

8. The Applicant accordingly filed his application with the Tribunal on 14 August 2007 challenging the two misconduct decisions of the HRSVP including the Bank's alleged failure to protect his confidential personnel information and due process rights.