

**ADMINISTRATIVE TRIBUNAL
OF THE AFRICAN DEVELOPMENT BANK**

JUDGMENT

QUORUM: Justice Mohammed Bello, President
Professor Maurice Glele Ahanhanzo, Vice-President
Justice Lombe Chibesakunda, Member

APPLICATION NO 1998/O2

Mr. A. I. B., Applicant
African Development Bank, Respondent

Judgment of the Tribunal- delivered on 6 July 1999

PURSUANT to Art. III of the Statute of the Administrative Tribunal of the African Development Bank, on 22 December 1998, the Applicant, Mr. Almamy Ibrahima Barry, filed with the Executive Secretary of the Tribunal, an Application challenging the decision of the Management of the Bank to refuse to establish the Pension Fund Appeals Committee, pursuant to Art. XIV of the Staff Retirement Plan in Resolution N° 05-89 adopted by the Board of Directors. According to him, the final decision was the one taken on 30 November 1998, that is one month after the letter he had addressed to Mr. Chanel Boucher, Vice-President in charge of Corporate Management, to request him to convene the said Committee. In the absence of a reply to this letter, Vice-President Boucher is considered to have confirmed the decision by Management not to establish such Committee.

The Application was transmitted to the Defendant. Having requested an extension of time limit and obtained the President's permission to file its response not later than 28 February 1999, the Defendant filed a motion to dismiss on 26 of February 1999, in accordance with Art. XIV of the Statute. Given that the motion was filed after the 30 days fixed in the same article, the Defendant was requested to directly address the merits, which is what he did.

At the Hearing of the 5th of July 1999, the case was adjourned to the Session of the 6 July 1999, owing to the absence of the Applicant's counsel, whose appearance had previously been notified to the Tribunal.

Furthermore, the Applicant had requested the assistance of the Tribunal in obtaining from the Defendant the 1996, 1997, 1998 Annual Reports of the Staff Appeals Committee, which he claimed he needed for his defense.

Following an exchange of views between the Defendant's Counsel, the Applicant and the Tribunal as to whether it was appropriate to provide these reports and concerning the confidentiality of the documents, the Tribunal decided that the reports would be released to the Applicant and that, in a meeting behind closed doors on the 6 July 1999, the Applicant would be requested to indicate which parts of the reports should be reproduced for his use. Meeting in camera, as scheduled on 6 July 1999, the Tribunal noted the absence of the Counsel for the Applicant and, when asked to specify the portions required, the Applicant withdrew his request. The Tribunal took note and directed that the said reports be withdrawn and returned to the Defendant.

At its open session the same day, the Tribunal, noting once again the absence of the Counsel for the Applicant, proposed to the Applicant that the case be deferred, so as to allow him to organize his defense. The Applicant accepted the proposal.

CONCLUSION

In view of the foregoing, and after deliberating on the matter at the same session, the Tribunal decided to postpone the hearing of the application of Mr. Barry versus the African Development Bank to the Session of 6 December 1999.

Justice Mohammed Bello - President _____

Mrs. Albertine Lipou Massala - Executive Secretary _____

COUNSEL FOR APPLICANT:

- Ms. Rose Dennis
Absent

REPRESENTATIVE OF THE DEFENDANT:

- Mr. Van de Moesdijk, Director, Human Resources Department (CHRM)

COUNSEL FOR DEFENDANT:

Lead Counsel:

- Mr. Adesegun Akin – Olugbade

Assisted by:

Mr. Dotse Tsikata

Ms Almaz Tadesse