

ADMINISTRATIVE TRIBUNAL  
OF THE AFRICAN DEVELOPMENT BANK

<b>QUORUM :</b>	<b>Justice Mohammed Bello,</b>	<b>President</b>
	<b>Professor Maurice Glélé Ahanhanzo,</b>	<b>Vice President</b>
	<b>Justice Lombe Chibesakunda,</b>	<b>Member</b>
	<b>Dr. Ahmed El-Kosheri,</b>	<b>Member</b>

APPLICATION N° 2000/02

T. K., Applicant  
African Development, Respondent

Judgment of the Tribunal – delivered on April 12th, 2001

**I. THE FACTS**

1. The Applicant, T. K., joined the staff of the African Development Bank (hereinafter : the Bank) in 1985. He obtained permanent status on 12 June 1991 and was assigned to the Co-Operation Unit (OCPU) of the Bank, where his post was classified as belonging to the level PL5.
2. In 1997, with a view to increasing the overall effectiveness of its activities and insuring equal remuneration to be paid for equal service, the Bank decided that a new job classification system should be put into place. During the first stage, all staff members, including the Applicant, were requested to write descriptions of the functions they actually performed. These positions or job descriptions established by the individual office holders themselves were then validated by the responsible managers, in the case of the Applicant by the Head of OCPU on 16 July 1997. At a second stage, two Job Evaluation Committees examined the descriptions and graded them against a system of Job Evaluation Standards that had been developed with the assistance of

- outside consultants. As a result of this process, profiles were established for all posts listed in the organizational chart of the Bank. At a last stage, the suggestions for classification were again reviewed by a Steering Committee of the Bank chaired by the Vice President CMVP as to their reliability and consistency.
3. The entire process was conducted anonymously. During phases two and three, the job descriptions did not carry the names of the actual incumbents, but were identified only by numbers. It was only at the end of the classification exercise that the numbers were again related to the names of the office holders.
  4. The Applicant's post had been given the number 4600. By a decision of the Steering Committee of 1 January 1998, it was rated, in accordance with the scheme of Job Evaluation Standards, as belonging to classification level PL5. Thus, the Applicant was to be maintained in his previous job category.
  5. The Applicant disagreed with this evaluation and seized the Job Evaluation Appeals Committee, which the Bank had set up to permit a review of the reclassification exercise, by an appeal of 6 October 1998. He requested that his post be reclassified at the PL4 level, drawing attention to the fact that his portfolio comprised responsibility for maintaining relations with a considerable number of universal, regional and sub-regional institutions and additionally bilateral relations with Italy. Yet, the three Committee members, meeting on 7 June 1999, concluded by consensus that there were no sufficient grounds to recommend a higher classification and that the post was properly classified at the PL5 level.
  6. The President of the Bank accepted the recommendations of the Job Classification Appeals Committee. By letter of 3 December 1999, the Applicant was informed accordingly.
  7. On 3 March 2000, the Applicant filed an Application with the Tribunal. He requested a reassessment of the classification of the post based on an accurate presentation of his actual portfolio and duties.

## II. ARGUMENTS OF THE PARTIES

8. The Applicant submits that the evaluation of the functions assigned to him was based on erroneous factual assumptions. Neither had his responsibility for co-operation agreements with not less than nine multinational institutions been correctly taken into account nor his responsibility for the co-operation agreement with Italy. Furthermore, contrary to the findings of the Job Evaluation Appeals Committee, it belonged to his tasks to represent the Bank in many international meetings with the co-operation partners. In addition, the Committee had committed a serious procedural mistake in stating that he had been present during the examination of his case. He had chosen not to attend that meeting. Thus, the basis on which the Committee's decision rested was seriously flawed.
9. As far as substantive legal aspects are concerned, the Applicant contends that the Bank has breached the principle of equality. He maintains that two other officers in OCPU, who are classified as PL4, discharge duties the nature and complexity of which is in no manner different from his own functions. This is also borne out by the fact that he acts regularly as alternate for one of this two colleagues, taking in his absence all the decisions which are required by the exigencies of the current situation.
10. The Respondent argues that the classification decision challenged by the Applicant is based on the classification scheme evolved by the Bank in a painstaking effort. The relevant Job Evaluation standards contain factors that applied to each position based on its description and profile, and taking into account the level of difficulty and complexity of the work assigned to the position; the level of independence and control that the position's holder exercises over the work assignments; the work relationships of the position holder both within and outside the Bank and the level of importance of those relationships and the impact of the work and the consequences or errors to the Bank; and the professional knowledge and practical experience required to accomplish the work assignments.

11. These standards were carefully applied to the position of the Applicant. On aggregate, according to a weighted assessment of the responsibilities assigned to post 4600, a point rating of 1280 had emerged, which placed the Applicant within the PL 5 classification level.
12. The Respondent draws attention in particular to the judgment of the World Bank Administrative Tribunal in the *Pinto* case <sup>1</sup> according to which a job grading program constitutes an exercise of discretionary authority and as such is not subject to judicial review, «unless it is shown that there has been an abuse of discretion, by reason of the action taken in a concrete case 'being arbitrary, discriminatory, improperly motivated or carried out in violation of a fair and reasonable procedure».
13. The Applicant, for his part, refers to a number of judgments of international administrative tribunals where the principle of equality of treatment of staff members is stressed. In particular, he relies on the judgment of the United Nations Administrative Tribunal in *Fussimanya-Reyna* of 14 July 1994 (No. 645). Responding to the arguments derived from that decision, the Bank submits that the reasoning contained therein confirms its viewpoint that Job Classification lies essentially within a discretionary power.

### **III. THE PROCEDURES**

14. At the oral hearing of 22 November 2000, the Respondent furnished the Tribunal with a document which sets out in detail, for the Co-Operation Unit, the definitions of the different positions in the Unit and also the rationales for factor point rating as applied to these positions.
15. On April 10<sup>th</sup> 2001, the Tribunal heard the testimony of Mr. H'midouch, the Head of the Co-operation Unit at the time when the new job classification system was implemented. Throughout his examination and cross examination, the witness provided the Tribunal with ample information about the various aspects of the reclassification process pertaining to the case under consideration.

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<sup>1</sup> Of 26 May 1988, Judgment N°. 56, p. 13.

16. On April 11<sup>th</sup>, 2001 Counsels of both parties delivered their final submissions and the Tribunal decided to render its decision on April 12<sup>th</sup>, 2001.

#### IV. THE TRIBUNAL'S FINDING

17. According to an established general rule regularly held by International administrative Tribunal, the assignment of grades to posts within the context of an operation of classification or reclassification constitutes an exercise of discretionary power. On various occasions, the Administrative Tribunals expressed their reluctance to interfere in the grading of posts, which necessarily involves the evaluation of the jobs undertaken by each staff member, the complexity of the tasks assigned to him, as well as the degree of the responsibility involved, together with whatever other pertinent factors on which the grading depends. The said evaluation can only be performed by experienced persons sufficiently trained to apply the relevant technical criteria.

The control that could be exercised over such evaluation by a judicial body is limited to the assessment of whether the evaluation of a given post was or was not tainted by an adequately proven irregularity, in the sense of ensuring whether the exercise of the discretionary power was or was not abusive, arbitrary or based on significant errors of procedural or substantive nature. (Judgments of the ILO Administrative Tribunal in cases N° 342 (*Price N° 2*); N° 591 (*Garcia*), N° 929 (*Dunaud and Jacquemod*); of the UN Administrative Tribunal's Judgment of June 4, 1987 in case N° 388 (*Moser*); World Bank Administrative Tribunal's Judgment of May 26, 1988 in case (*Pinto*); and IMF Administrative Tribunal's Judgment in case 1996-1 (*D'Aoust*))

18. In the present case, it has to be emphasized that the Applicant failed to convince the Job Evaluation Appeals Committee that any such of irregularity was committed concerning him within the process of the reclassification exercise.

Accordingly, the Committee members concluded by consensus that there were no sufficient grounds to recommend a classification higher than a PL5 for the Applicant's post.

Equally, the Applicant provided the Tribunal with no convincing evidence that there had been serious departure from the criteria generally followed in the reclassification of his post, that he was subject to any discriminatory measure or victim of an error of certain significance.

**V. DECISION**

19. For the reasons stated herein-above the Tribunal declares the Application dismissed.

Honorable Justice Mohammed Bello - President

Albertine Lipou Massala - Executive Secretary

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**REPRESENTATIVE OF THE RESPONDENT**

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- and
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