

ASIAN DEVELOPMENT BANK ADMINISTRATIVE TRIBUNAL

**Decision No. 34
(6 January 1997)**

**Gordon E. Wilkinson
v.
Asian Development Bank
(No. 2)**

**Mark Fernando, President
Robert Gorman, Vice-President
Brigitte Stern**

1. In Wilkinson, ADBAT Decision No. 10 [1996], the Tribunal dismissed the Application challenging the evaluation and classification of the position of Economics Editor, Economics and Development Resource Center (EDRC-CS) held by the Applicant from 1989 to 1994. The Tribunal concluded that there was no showing that the grading of the position at Level 3 was ill-motivated, arbitrary, discriminatory, or otherwise vitiated by any other abuse of power or defect of procedure.
2. Some six months thereafter, the Applicant filed with the Tribunal a request for reconsideration of judgment, purportedly pursuant to Article XI of the Statute of the Tribunal. That Article empowers the Tribunal to revise a judgment in the event of the discovery of a fact which by its nature might have had a decisive influence on the judgment of the Tribunal and which at the time the judgment was delivered was unknown both to the Tribunal and [the requesting] party.
3. The Applicants request for reconsideration is based on several grounds, all of which he summarizes as a series of significant and substantial errors ... of procedure, errors of law, and errors in its process for judgment. These alleged errors involve: (a) an observation by the Tribunal concerning the filing of the application, without basis in procedure and beyond the Tribunal's terms of reference; (b) the exclusion of evidence proffered by the Applicant in his Application, in excess of the Tribunal's authority and pursuant to an unprecedented and arbitrarily created rule of procedure; (c) the failure to strike down the procedures used by the Bank in evaluating and classifying his position, in part because of the Tribunal's failure to invoke case precedents of the World Bank Administrative Tribunal (WBAT); (d) the failure to undertake meaningful, objective analysis of the facts presented in the submissions and the reaching of erroneous factual conclusions; and (e) the failure to provide the Applicant with personnel files of other staff members given by the Respondent to the Tribunal.
4. The Applicant has failed to comply with the explicit preconditions set forth in Article XI of the Statute for the revision of judgments. Article IX of the Statute expressly provides that the Tribunal's judgments in each case shall be final and binding, a principle that would be altogether undermined if requests for revision were to be granted on grounds such as those put forward here. As has been stated in Skandera (WBAT Reports 1982, Decision No 9, para. 7.): [T]he powers of revision of a judgment are strictly limited and may be exercised only upon compliance with the conditions set forth in the Statute. It is indispensable in such a proceeding that the requesting party identify a fact discovered after the Tribunal's judgment which by its nature might have had a decisive influence on that judgment and which at that time was unknown both to the Tribunal and to the requesting party.

5. Neither of those conditions is satisfied here. In essence, every one of the Applicants grounds for seeking revision can be reduced to a contention that the Tribunal made a mistake in its initial rulings and judgment. Despite his protestations to the contrary, the Applicant is doing no more than filing an appeal from the Tribunal's judgment. The Applicant places no pertinent new facts before the Tribunal, let alone one that might have had a decisive influence had it been known by the Tribunal at the time it rendered its decision. Indeed, all of the Applicants contentions are based clearly upon pleadings and facts that were before the Tribunal when it considered and rendered its judgment in his case. Claims that the Tribunal has committed serious errors of law, fact or procedure are altogether inadequate to warrant a revision of judgment.

Decision:

For the above reasons, the Tribunal decides to refuse the Applicants request for revision of its judgment in Wilkinson, ADBAT Decision No. 10 [1996].