









posts were classified as P-4, P2, G-6 and G-5. Furthermore, the Appellants are both female and were doing equal work as the two comparators who are male but for less pay in violation of their human rights under Article 23(2) of the Universal Declaration of Human Rights and in violation of IMO Staff Rule 101.2(e) and the IMO policy and procedures on workplace harassment. Despite the downgrading, the Appellants were still paid less than their male comparators for work which the IMO admits was equal. The only way to remedy this retroactive discrepancy is to pay them the difference in salary in arrears. In turn, the Appellants argue that the SAB and the Secretary-General of the IMO erred in law when they failed to rectify the IMO's admitted breach of the equal pay principle.

13. The SAB and the Secretary-General of the IMO further erred in law and procedure as the reclassification decision breached IMO Staff Rule 102.1, which required that posts and their inter-relationships be analysed objectively and fairly. The IMO has admitted their roles were similar to the two comparators who concluded a project of equal work yet were paid at the higher grades.

The Secretary-General of the IMO's Consolidated Answer

14. The Secretary-General of the IMO requests the Appeals Tribunal to dismiss the appeals. The Secretary-General of the IMO argues that the Appellants fail to meet their burden of showing error in the decision. Firstly, the Appellants do not provide any evidence of discrimination against them in violating the principle of equal pay for equal work. The SAB also did not find any evidence was proffered. The Appellants for the first time on appeal argue they were discriminated against due to their gender. There is no evidence to support this claim. As new arguments are not permitted on appeal, they should be dismissed. Furthermore, the Appellants allege that this discriminatory and unequal payment by not aligning their posts with the posts in the GloBallast project constitutes prohibited conduct under Rule 1.5 of the IMO's Policy and Procedures for Investigation of Alleged Breaches of IMO Policy on the Right to Work in a Harassment Free Environment (The Non-Discrimination Policy). The Appellants claim that the Secretary-General of the IMO breached Rules 33 and 5.3 of the Non-Discrimination Policy. These policies set forth formal procedures requiring a formal complaint, investigation, report, etc. The Appellants never submitted a formal complaint on prohibited conduct in line with these policies and there was thus no administrative decision rendered as they did not utilize the first instance process. Any consideration regarding these claims should be deemed not receivable by this Tribunal.

15. The IMO complied with the procedures of IMO's Staff Rule 102.1 as a tripartite CC was established comprising of an independent job classification expert, a trained and qualified representative of the Human Resources Services and a trained representative nominated by the Staff Committee. Three affidavits of the members set forth their qualifications in this regard. The CC reviewed the duties and responsibilities attached to each post; reviewed the relationship between posts as relates to various factors in the system; reviewed the levels as they fit within the overall structure; applied the post classification system established by the International Civil Service Commission (ICSC); analyzed component parts of the job and compared them to other jobs in similar disciplines; interviewed the supervisor; and assessed the occupational field. The CC determined independently and unanimously that their posts should remain at their current levels.

16. This Tribunal should dismiss the Appellants' claims for relief. There is no legal basis for their claim to be paid at the higher grade in arrears. The Appeals Tribunal is not competent to classify or re-classify posts and therefore cannot grant this request. The Appellants' claim for moral damages and for lost opportunities or career progression is without any supporting evidence and must fail. Their claim for legal costs must also fail as the Appeals Tribunal's power to award costs is restricted to cases where a party has manifestly abused the proceedings. There is no evidence that the Secretary-General of the IMO has abused the process.

#### Considerations

17. There are fundamental problems with the manner in which the IMO has dealt with Ms. Dispert and Ms. Hoe's requests for reclassification. This Tribunal is concerned that the "decisions" under appeal do not appear to conform to the Respondent's jurisdictional requirements under Article XI of IMO's Staff Regulations and Rules. IMO Staff Rule 111.1(a) ("Consideration of an Appeal by the Staff Appeals Board") provides that the SAB, as the "first instance neutral process", must provide a "written record" and a "written decision" providing reasons, facts, and law. IMO Staff Rule 111.1(b) provides that in cases, such as this, where the appeal is against an "administrative decision" ta



Judgment

22. The case is remanded to the SAB.

Original and Authoritative Version: English

Dated this 25<sup>th</sup> day of October 2019 in New York, United States.

*(Signed)*

Judge Neven, Presiding

*(Signed)*

Judge Knierim

*(Signed)*

Judge Colgan

Entered in the Register on this 20<sup>th</sup> day of December 2019 in New York, United States.

*(Signed)*

Weicheng Lin, Registrar