

Legal Update

Can similarities in awards issued by different tribunals in concurrent arbitrations justify setting aside for breach of natural justice? DSS v DST [2026] SGHC 145

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The Singapore High Court's decision in DSS v DST [2026] SGHC 145 addresses the situation when similarities between awards in related concurrent arbitrations may support a challenge for breach of natural justice under s 24(b) of the International Arbitration Act 1994 (2020 Rev Ed) ("IAA").

The court dismissed the setting-aside application and held that, although substantial similarities existed between the two awards, they did not give rise to apparent bias or a breach of the fair hearing rule. The decision is important because it clarifies the applicable tests under Singapore law where related arbitrations are heard concurrently, and it emphasises both the permissibility and the limits of shared reasoning across separate proceedings.



Background: two charterparty arbitrations concerning the same vessel

The dispute arose out of a chain of time charterparties concerning the same vessel. The vessel was chartered by its owner to the defendant under a head charter, and the defendant in turn sub-chartered the vessel to the claimant under a separate subcharter. The terms of the two charterparties were materially identical, and disputes later arose following an incident involving a gangway installed on board the vessel.

The dispute produced two separate arbitrations. The first, the "Head Reference", was between the vessel owner and the defendant as head charterer. The second, the "Sub-Reference", was between the defendant and the claimant as sub-charterer. Different arbitrators were appointed in each arbitration: the Head Reference was before a sole arbitrator, while the Sub-Reference was before a three-member tribunal.

The parties agreed that the arbitrations should proceed concurrently. The concurrency order provided that pleadings, evidence and other materials in one reference would be made available in the other, and that if both matters proceeded to final hearings, those hearings would be heard together, although parties could not make submissions in the reference to which they were not a party.

The arbitrations were thereafter conducted in accordance with that order, with the tribunals sitting together and hearing all the evidence and arguments concurrently.



Why the claimant challenged the award

The challenge arose because there were substantial similarities between the award in the Head Reference and the award in the Sub-Reference. The claimant argued that 108 out of 211 paragraphs in the Sub-Reference award consisted of wholesale or substantial reproductions from the Head Award, including findings of fact and legal reasoning on contested issues. The claimant argued that these similarities, coupled with the tribunal's express statement that it had read the draft Head Award, would cause a fair-minded and informed observer to reasonably suspect that the tribunal had approached the matter with a closed mind.

The claimant also argued that the fair hearing rule was breached because the tribunal relied on the Head Award as a template or basis for its decision without giving the parties an opportunity to address that use of the Head Award.



The court's framework: three possible natural justice complaints

The court held that the similarities between the awards potentially engaged three distinct natural justice complaints:

- a. first, whether the alleged copying showed prejudgment amounting to apparent bias;
- b. second, whether it showed that the tribunal had not properly applied its mind to the issues, arguments and evidence in the Sub-Reference; and
- c. third, whether the tribunal had decided the Sub-Reference on a basis not contemplated by the parties, by relying on the Head Award without giving them an opportunity to make submissions on it.



The applicable tests: reasonable suspicion and prejudice

The court confirmed that apparent bias is assessed from the perspective of a fair-minded and informed observer, asking whether that observer would reasonably apprehend or suspect that the decision-maker approached the matter with a closed mind and thereby prejudged the issues. The court held that the same test of reasonable suspicion also applies to the fair hearing rule in arbitration. However, to succeed a complainant must show not only breach, but also prejudice, namely that the breach could reasonably have made a difference to the outcome of the arbitration.



Why this case was different from prior "cut and paste" (i.e. parallel award copying) cases

A notable feature of the judgment is the court's explanation of how this case differed from cases involving the reproduction of material from earlier parallel awards, especially *DJP v DJO* [2025] 1 SLR 576.

In those earlier cases, the concern was that the same presiding arbitrator had sat in multiple parallel arbitrations heard separately, and that the award in the impugned arbitration had been materially influenced by awards from the earlier arbitrations. That raised the question whether the decision-maker had failed to keep an open mind while hearing the later case because he had already been influenced by prior decisions in other proceedings.

By contrast, in *DSS v DST* [2026] SGHC 145, the Head Reference and Sub-Reference were heard concurrently, not sequentially. No complaint was made about the conduct of the hearings themselves or about the fact of inter-tribunal discussions during the concurrent process. Instead, the allegation was narrower: that the tribunal in the Sub-Reference had simply adopted the findings and analysis in the Head Award when drafting its own award after the parties had already been heard.

The court accepted that in concurrent arbitrations, where both tribunals heard the same evidence and arguments together and the parties had agreed to information-sharing and joint hearings, some exchange of views and some similarity in reasoning might be inherent in the process.

The legal question therefore was not whether the awards could look similar at all, but whether the similarities were such that the award, viewed as a whole, no longer demonstrated independent judgment by the tribunal that issued it.



The court's approach to concurrent arbitrations

The court made several observations of broader importance for concurrent arbitrations. It held that an agreement for arbitrations to be heard concurrently, even with inter-tribunal communications or discussions, does not consolidate the proceedings or merge the tribunals. The arbitrations remain separate, and each tribunal must consider the issues before it independently.

Separate awards should be issued, and each award must reflect the tribunal's own reasons. Similarity of language may itself create suspicion that the tribunal has not exercised independent judgment. Even where common reasons are adopted, the tribunal should clearly distinguish its own reasoning from that in the related award with which it agrees and should identify and address points specific to the arbitration before it.



Findings

The court held that there was no apparent bias. Much of the copied material concerned undisputed background facts or descriptive recitations of evidence, which would not carry much weight with a fair-minded and informed observer. Although there were some similarities in relation to findings of fact and legal analysis on contested issues, those portions were limited in significance when the award was read as a whole, and the tribunal had also addressed arguments and issues specific to the Sub-Reference.

On this basis the court held that the tribunal had properly applied its mind to the matters in the Sub-Reference, and had not impermissibly relied on the Head Award. Because the references were heard concurrently, with common evidence and arguments accessible across both proceedings, the Head Award was not "extraneous material" in the same sense as material from separately heard parallel arbitrations. Some reference to and consideration of the Head Award was therefore within the parties' contemplation, so long as the tribunal still exercised separate judgment.



Practical implications

The decision confirms that concurrent arbitrations are permissible, but they do not relax natural justice requirements. Separate tribunals in concurrent proceedings must still decide separately, and their awards must demonstrate independent reasoning.

At the same time, substantial similarity between related awards will not, without more, justify setting aside.

For parties and tribunals, the message is clear: concurrency may deliver efficiency, but procedural coordination does not permit adjudicative shortcutting. Similar reasoning across related awards may be unobjectionable; unthinking adoption is not.

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