

T.D. 16/94

Decision rendered on November 4, 1994

CANADIAN HUMAN RIGHTS ACT
R.S.C. 1985, c. H-6 (as amended)

HUMAN RIGHTS TRIBUNAL

BETWEEN:

HARBANS SINGH RANDHAWA

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

GOVERNMENT OF THE YUKON TERRITORY

Respondent

TRIBUNAL DECISION

TRIBUNAL: Donald Allin Souch

APPEARANCES BY: René Duval, Counsel for the Commission
Thomas E. Ullyett, Counsel for the Respondent

DATES AND PLACE OF HEARING: September 21-25, 1992
March 15-19, 1993
February 3-5, 1994
February 7-11, 1994
Whitehorse, Yukon
March 2-4, 1994
Vancouver, British Columbia

This Tribunal was appointed to deal with a complaint by Harbans Singh Randhawa against the Government of the Yukon Territory. Mr. Randhawa filed his initial complaint with the Human Rights Commission on July 9, 1987 and filed an amended complaint (Exhibit HR3) on January 7, 1991. In his complaint Mr. Randhawa claims that he was a victim of racial harrassment and denied three job promotions because of his race. The relevant sections of the Canadian Human Rights Act are Sections 7 and 14. This hearing, which was held to deal with these complaints, was lengthy and involved numerous witnesses and exhibits. The hearing, which lasted approximately four weeks, was spread over the period from September 1, 1992 to March 4, 1994 due to delays caused by scheduling and the illness of one of the counsel.

I have now had an opportunity to thoroughly review all of the evidence, submissions by both counsel and the legal authorities provided to me, and I have come to the following conclusions:

1. The Complainant was a victim of racial harrassment pursuant to Section 14 (1)(c) of the Canadian Human Rights Act ("the Act"). The incidents constituting the racial harrassment, at least insofar as the Complainant was concerned, were isolated and were dealt with in an appropriate manner by the Respondent.

2. The Complainant was denied the first and third job promotions described in his amended complaint on a prohibited ground of discrimination, namely his race, contrary to Section 7 of the Act. The positions in question were the Field Mechanical Superintendent position and the Heavy Duty Mechanical Foreman position. Although there was clearly favouritism in the hiring for the position of Mechanical Superintendent Central Workshop, I do not believe that the result was racially motivated. Although race may have been a factor in the minds of some members of the Hiring Board for the second competition, the person who had the most say in the selection of the successful candidate, Dick Arnold, clearly would have done everything he could to have Mr. Magnuson selected regardless of who the other certified candidates were and regardless of what race, cultural or ethnic background they were.

3. As a result of finding that the Complainant was subject to discrimination as aforesaid, the Complainant is entitled to compensation and other remedies pursuant to Section 53 of the Act.

4. Relief shall be granted to the Complainant pursuant to Section 53 of the Act as follows:

- (a) The Complainant shall be compensated for loss of wages and other benefits that he has been deprived as a result of being denied the job promotions;
- (b) The Complainant shall be instated by the Respondent at the first reasonable opportunity into a position similar to the position he was denied because of race upon the terms which I will set out in more detail in my written reasons to follow; and
- (c) Damages or compensation for hurt feelings.

The full written reasons in support of my decision will be available shortly. In that document I will also set out in more specific detail the Orders to be made pursuant to Section 53 of the Act.

Dated this 19th day of October, 1994.


DONALD ALLIN SOUCH
CHAIRMAN