

PAS's description of applicant had "patronizing and insulting overtone"

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The Public Appointments Service (PAS) has been told by a WRC adjudicator to compensate a senior civil servant €7,500 for discriminatory words used by its assessor board, following a 'strategic management exercise' in 2017.

An assessor board's feedback on an applicant, that she had a "friendly approach to presenting" but that she "needs to work on her nerves as [she] can come across as unsure" has been found to be discriminatory by a WRC adjudicator (AO).

AO Penelope McGrath said these words gave rise to an inference that the complainant, Breda Rafter, was a "silly woman and out of her depth."

"These words would resonate in a completely different way if used about a man and, in any event, there was no evidence such language had been used about any male candidate", the AO said.

"Describing someone as 'friendly' in the context of a high-level Management position cannot be considered a professional assessment of a professional person" and saying the complainant "was 'unsure' and needed to work on her 'nerves', has unfortunately got a patronizing and insulting overtone which portrays or stereotypes the complainant as insecure, highly-strung and unable to function in the workplace."

The complainant described the words as "offensive", "derogatory" and "misogynistic."

While the words used by the board (Mr NO and Ms BG) in their feedback were deemed discriminatory, Ms Rafter's broader claim that there is systematic discrimination in the promotion process was unsuccessful.

MANAGEMENT EXERCISE

Ms Rafter was seeking promotion to a principal officer (PO) position in a government department, but scored poorly on one assessment exercise, resulting in her failure to be placed on a panel of 60 candidates.

Having passed the first phase, a supervised online exercise, she then engaged in a 'strategic management exercise' in which she thought she did well. Following this she gave an interview for which she scored highly.

Shortly after, she was informed she did not receive a score in the strategic management exercise to enable her to be placed on the PO panel: she scored 63 out of a possible 200 (a minimum of 80 is required to pass this test.)

The 'strategic management exercise' is designed to assess on-the-spot performance and response to a fictitious scenario and is supposed to discount the experience of the candidate so that everyone is on a level playing field.

During this exercise the complainant referred to her previous experience advising a Minister.

The assessor board noted that Ms Rafter "missed most of the relevant points to be gleaned from the exercise presented" and that a report she prepared as part of this exercise "lacked strategy" and was in the format of a simple regurgitation of the information.

'COMPREHENSIVELY REBUFFED'

Ms Rafter alleged there was systemic disadvantage in the recruitment service, that hindered her gaining promotion on previous attempts (since the WRC hearings, she has gained a promotion to a different department).

The complainant also referred to comments made by a department secretary general, that he wanted "new blood" across the board (his comments were cited in the Irish Independent).

While the complainant cited the fact that 95% of candidates who were placed on the PO panel were under the age of 50, the PAS noted that 90% of applicants were under the age of 50.

Of the 119 male applicants, 46 were successful in the strategic management exercise; of the 77 female applicants, 32 were successful in the exercise.

The AO found that the PAS "provided cogent evidence that the creation and the application of the strategic management exercise was not inherently discriminatory", that it was designed to "ensure everyone is on a level playing field."

The PAS "comprehensively rebuffed the very general claims made by the complainant as to the systematic disadvantaging of employees based on age or gender. There is no evidence of a direct or indirect discrimination against women or persons over 50 either getting jobs or being promoted in this workplace."

The complainant was represented by Michael Hegarty, instructed by Reddy Charlton solicitors; the respondent was represented by Grainne Gilmore BL, instructed by Karen Duggan, CSSO. (ADJ-00012188, AO: Penelope McGrath)