

Civil Servant took discrimination claim after failing to get promoted

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A female civil servant has lost her claim for discrimination on the grounds of gender, age, family status and civil status, taken after she failed to secure promotion from assistant principal to principal officer.

The complainant also lost her claim that she was victimised by an unnamed government department. She brought the claim against her employer and the recruitment service that ran the promotion competition.

A representative of the respondent requested that the decision be anonymised on the basis that the claims contained “serious and damaging allegations against a witness of the respondent” which asserts “dishonest and immoral behaviour” on the part of the witness. AO Orla Jones exercised her discretion to anonymise the decision.

The complainant applied for promotion to principal officer (PO) in autumn 2021, was interviewed on January 12, 2022 and was notified on January 19, 2022 that she was unsuccessful. She argued that the successful candidate was male, had less time served as an assistant principal (AP) and as far as she was aware, is not married, has no children and is younger than her. By contrast, the complainant is “female, older, married, though separated, and has children”. She argued she also had more experience in the Civil Service.

The complainant sought a review of the decision arguing that Mr A, who is her manager, had assigned much of the departing PO’s duties to her and had made no complaint of her work and that this was not taken into account. The appeal was unsuccessful, with the board pointing out she did not meet the standard in leadership and strategic direction.

The complainant also claimed that Mr A – her immediate boss – was on the interview panel and this constituted a conflict of interest. She claimed that she was informed that her appeal against the outcome of the promotion competition was sent to her at 17.39 on March 2, 2022 or “9 minutes after close of business”.

She argued that this was “a deliberate slap in the face” for a department which excludes people from competitions based on tardiness.

‘SNEAKY’

She said that her union told her that Mr A was claiming to have taken over a large proportion of the departing PO’s duties. She argued that this claim and the fact he was on the interview panel showed a potential for bias against her.

She claimed that Mr A’s behaviour could fall within the class of “malicious and intentional”. In terms of victimisation she said she was excluded from meetings. She also said that Mr A made comments to her at a meeting with EU officials that she was “sneaky” and said there was “a place in Russia for you”.

The government department argued it was not the appropriate respondent which should be the recruitment service. The respondent said the complainant had not submitted sufficient evidence to support a prima facie case of discrimination. It also argued that recruitment service is not the complainant’s employer and thus cannot victimise her.

The recruitment service said that no outside information about an applicant can be brought to the interview. It added that if one of the interview panel knows the applicant he/she speaks last. "Where the Complaint in respect of discrimination relies upon the coincidence of descriptive adjectives used to categorise the selected Comparator and to thereafter allege discrimination, is insufficient, without merit and should be dismissed" said the service. It added that the claim she was victimised because she got a response '9 minutes after close of business' is not reasonable nor fair.

MADE IN JEST

AO Jones said she was satisfied that the government department is not the correct respondent in regard to the claims of discrimination and the correct one is the recruitment service. The AO added that the complainant did not adduce any evidence of discrimination by the within respondent, a named Government Department on grounds of age, gender, family status or civil status, and was not discriminated against.

On the claims of victimisation, the AO said she was satisfied that the government department was the correct respondent in this claim. In regard to claims made that the complainant was left out of meetings, Mr A acknowledged that he should have passed on information from that meeting to the complainant.

He said he was busy and apologised for the omission. On Mr A's comments during a meeting with EU officials that the complainant was 'sneaky' and would do well in Russia, Mr A said it was made in jest.

Mr A said he had actually praised the complainant for coming up with some good ideas. He said his style of management was that not everything had to be serious and he believed the complainant had recognised at the time that the remarks were made in jest.

The AO said that the incidents outlined "do not amount to adverse treatment". The AO concluded that the complainant was not discriminated against and that she was not victimised by the respondent. (ADJ-00041243, AO: Orla Jones)