

## HUMAN RIGHTS COMMITTEE

### Singh v. Canada

Communication No. 761/1997\*\*

29 July 1997

CCPR/C/60/D/761/1997\*

### ADMISSIBILITY

*Submitted by: Ranjit Singh*

*Victim: The author*

*State party: Canada*

*Date of communication: 20 January 1995 (initial submission)*

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 29 July 1997,

Adopts the following:

#### **Decision on admissibility**

1. The author of the communication is Ranjit Singh, a Canadian citizen residing in Edmonton, Canada. In his submission, the author claims to be victim of a violation of articles 7, 14, paragraphs 2 and 3 (a), 17 and 26 of the Covenant.

#### **The facts as submitted by the author**

2.1 On 29 April 1986, the author was dismissed from a graduate training course in Communicative Disorders at the University of Western Ontario, after having spent two years in this programme. The grounds for dismissal invoked by the Department of Communicative Disorders were communicated to the author during a meeting with the Department Graduate Committee on 29 April 1986: they relate to repeated occurrences of hostile, abusive and threatening behaviour on the part of the author vis-à-vis various individuals working within the Department, as well as the insufficient clinical

grades the author had received for his studies (69%), when 70% is the passing grade for clinical practicum courses in the Department 1/. However, the author claims that the real grounds for his dismissal relate to an incident which happened on 27 April 1986, when the office of the instructor in the training course was deliberately set on fire as he was sleeping in it, after his house had been gutted by fire a month earlier. According to the author, he was suspected from the Department to be responsible for the incident, although he was never formally charged with a criminal offence.

2.2 On 7 May 1986, the author submitted a file setting out the details of his case to the Dean of the Faculty of Graduate Studies, and asked for an appeal hearing against the decision of the Department Graduate Committee. The Department of Communicative Disorders was requested to set out its position; in the latter's submission to the Dean of the Faculty of Graduate Studies, three major factors were considered by the Department before the decision to dismiss the author from the programme, namely (1) his failing grade for the clinical practicum; (2) his highly defensive and confrontational attitude towards faculty members; and (3) his hostile, abusive and aggressive behaviour towards some members of the faculty, which on two occasions included statements that were taken as threats to the safety and physical integrity of Department staff, their families and possessions.

2.3 The author and members of the Department of Communicative Disorders were heard by an ad hoc Committee on 18 and 24 June 1986. Two days later, the author received a letter from the Dean of the Faculty of Graduate Studies, notifying him that the Committee had unanimously rejected his petition for reinstatement, on the grounds that the author's academic performance had been borderline in 1984-85 (71.8%); that difficulties had emerged when supervisors attempted to provide feedback and corrections on his activities; and that the author failed to achieve a passing grade in his Oral Rehabilitation programme. The author, arguing that in this decision, the grounds for his expulsion from the programme had been fabricated as purely academic by the ad hoc Committee, petitioned the Senate Review Board Academic, which held a hearing on 3 October 1986. The author's petition was denied by the Review Board, thus concluding the appeal hearings within the University appeal process.

2.4 On 11 January 1989, the author, through counsel, filed a statement of claim against the University and 14 individual defendants with the Supreme Court of Ontario, which dismissed the author's claims on 19 August 1992, on the grounds that the court was not satisfied that the defendants acted with malice toward the plaintiff, and thus that the decision reached by the Faculty was based on injurious falsehoods. Nevertheless, the Court, taking into account medical reports stating that the author's current condition resulted from his forced withdrawal from the audiology training programme, assessed non-pecuniary general damages to the author at 40,000 Canadian \$, but condemned the plaintiff to pay the costs to the defendants, for an amount of 28,184 Canadian \$. The author appealed this decision to the Court of Appeal for Ontario, which dismissed the appeal on 18 October 1993, on the grounds that the University followed its proper procedures and applied its usual standards; and that the trial judge had found, on the evidence before him, that there was sufficient factual foundation to justify the University's decision. The Supreme Court of Canada dismissed the author's application for Leave to Appeal on 5 May 1994.

2.5 On 6 May 1996, the author applied to the Court of Queen's Bench of Alberta to set aside the registration of legal costs ordered against him by the Supreme Court of Ontario, which denied the

application on the grounds that Alberta courts must give full faith and credit to the decision taken by the Ontario Court of Appeal, which properly evaluated all the evidence in the case.

### The complaint

3.1 The author claims to be a victim of a violation of his human rights by the Canadian judiciary and the University of Western Ontario, and invokes articles 7, 14, paragraphs 2 and 3(a), 17 and 26 of the Covenant.

3.2 The author alleges that, being suspected by the University of Western Ontario of having committed a serious criminal offence, he was expelled from the University, with lasting consequences for his professional and private life, in violation of article 14, paragraph 2, of the Covenant. He claims that, since he was never formally charged with any criminal offence, he was denied the opportunity to defend himself from the University's suspicions, in breach of article 14, paragraph 3(a), of the Covenant.

3.3 By reference to a letter dated 14 May 1986 from an employee of the University, which retraces the author's alleged history of violence, including stabbing and his being characterized as a dangerous psychopath by a member of the University of Alberta where he was a former student, and which was admitted as evidence in the Canadian courts, the author contends that these false statements greatly injured him in his character, credit, reputation in the community, in violation of article 17 of the Covenant. They are said to have caused a loss of status and a loss of employment opportunities.

3.4 The author claims that a confusion in some of the University members' minds between another man named Singh involved in the bombing of a transatlantic flight, and his being regularly considered as a Sikh, were the reasons for his being investigated and regarded as the perpetrator of serious criminal offences. According to the author, his ethnic origin was thus a principal reason for the treatment he received, contrary to article 26 of the Covenant.

3.5 Finally, the author claims that the State party's failure to provide social security to himself and his dependent children, while he is unable to sustain his family as a consequence of his forced withdrawal from the University, constitutes inhuman and degrading treatment, in violation of article 7 of the Covenant.

### Admissibility considerations

4.1 Before considering any claims contained in a communication the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

4.2 The Committee notes that the majority of the author's claims relate to the evaluation of facts and evidence in his case by the authorities of the University of Western Ontario and the Canadian courts, which were seized of the author's grievances. It recalls that it is primarily for the courts of States parties to the Covenant and the appellate instances of States parties to the Covenant to evaluate the facts and evidence in any particular case. It is not for the Committee to review such

evaluation of facts and evidence by the domestic tribunals, unless it can be ascertained that the domestic judges manifestly violated their obligation of impartiality or otherwise acted arbitrarily, or that the courts' verdict(s) amounted to a denial of justice. On the basis of the material before the Committee, there is no indication that the State party's tribunals seized of the case acted in any way that would have been contrary to article 14. Both the Supreme Court of Ontario and the Court of Appeal for Ontario, as well as the Court of Queen's Bench of Alberta, heard the author's grievances in some detail and dismissed them as without merits, giving reasoned decisions. The fact that these decisions went against the author and that the author continues to express dissatisfaction with them does not, *per se*, raise an issue under the Covenant. Accordingly, this part of the communication is inadmissible as incompatible with the provisions of the Covenant.

4.3 The author has claimed that the decisions against him taken by the University of Western Ontario and the Canadian judiciary amount to violations of articles 7, 14, paragraphs 2 and 3(a), 17 and 26 of the Covenant. The Committee considers that on the basis of the material submitted by the author, no issues under these provisions arise in the instant case. Firstly, there is no evidence in any of the impugned decisions, whether they are by university authorities or Canadian tribunals, that the author was treated differently from other Canadian citizens on account of his ethnic origin. Secondly, the Committee considers that the non-provision of social security services to the author or to his family after his withdrawal from the University of Western Ontario raises no issues under article 7. Thirdly, since the author was never implicated in any offence, there can be no question of a violation of the presumption of innocence and of guarantees of the defence protected by article 14, paragraph 3. Finally, the Committee observes that the conduct of judicial proceedings in accordance with the requirements of article 14 does not raise issues under article 17 of the Covenant. Accordingly, in respect of all of the above allegations, the author has failed to advance a claim within the meaning of article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

- (a) that the communication is inadmissible;
- (b) that this decision be communicated to the author and, for information, to the State party.

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\*/ Made public by decision of the Human Rights Committee

\*/ The following members of the Committee participated in the examination of the present communication: Mr. Nisuke Ando, Mr. Prafullachandra N. Bhagwati, Mr. Thomas Buergenthal, Ms. Christine Chanet, Lord Colville, Ms. Elizabeth Evatt, Ms. Pilar Gaitan de Pombo, Mr. Eckart Klein, Mr. David Kretzmer, Mr. Rajsoomer Lallah, Ms. Cecilia Medina Quiroga, Mr. Fausto Pocar and Mr. Martin Scheinin.

\*\*/ Pursuant to rule 85 of the Committee's rules of procedure, Mr. Maxwell Yalden did not participate in the examination of the case.

1/ The letter from the Departmental Graduate Committee, together with the minutes of the meeting

between the author and the Committee, are reprinted in a book entitled "Breach of Trust", published by the author and attached to the communication.