

HUMAN RIGHTS COMMITTEE

C. J. v. Canada

Communication No. 19/1977

13 August 1979

ADMISSIBILITY

Submitted by: C. J. on 24 February 1977

Alleged victim: The author

State party: Canada

Date of decision on inadmissibility: 13 August 1979 (seventh session)

Decision on Admissibility

The communication (initial letter dated 24 February 1977 and further letters dated 30 November 1977 and 29 March 1978) is submitted by a black Canadian citizen, who claims to be a victim of racial discrimination in Canada in violation of articles 2 (3) (c) and 25 (c) of the International Covenant on Civil and Political Rights. Information and observations on questions of admissibility of the communication were submitted by the State party on 9 May 1979, in accordance with rule 91 of the provisional rules of procedure of the Human Rights Committee. Comments thereon, dated 15 June 1979, were received from the author.

On 19 November 1975, the author received a one-year temporary appointment as a personnel officer, level II, step 4, with the Quebec Minimum Wage Commission. He claims to have been a public employee for five years at that time, and that at the expiry of his temporary contract he would have been entitled to a permanent appointment and promotion to level II, step 5. On 18 October 1976 he was informed that his employment would terminate on 18 November 1976, and hence that he would not be recommended for a permanent appointment.

Maintaining that his employer's decision was based on racial discrimination, he complained to the Quebec Human Rights Commission, which, on 13 December 1976, recommended to the Minimum Wage Commission that the author should be reinstated with retroactive effect as from 19 November 1976. The recommendation was based on the opinion of the Quebec Human Rights Commission that, although he had not been subjected to racial discrimination, the termination of his employment was due to an accusation found to be unjust. The

recommendation was supported by the Public Protector of Quebec Province on 3 February 1977. The Minimum Wage Commission, not being bound by such recommendations, chose, it appears, to ignore them.

On 4 July 1977, the author was reinstated in the civil service by a temporary appointment with the Office of the High Commissioner for Recreation and Sports of the Ministry of Education. His employment status, level II, step 4, was based on an eligibility list issued on 13 May 1977 by the Public Service Commission. In May 1978, he reached the level II, step 5, and on 4 July 1978 he was given a permanent appointment.

As the communication now stands the author's claims appear to be that, as a result of the decision of the Minimum Wage Commission to terminate his employment on 18 November 1976, allegedly because of racial discrimination, he has suffered the following injustices which have not been remedied:

- (a) Loss of pay for the period from 19 November 1976 to 3 July 1977, during which time he was unemployed;
- (b) Loss of remuneration resulting from a delay in a step increase in salary from level II, step 4, to level II, step 5;
- (c) Delay in obtaining a permanent appointment.

In its observations on questions of admissibility, the State party rejects the contention of the author that he is a victim of racial discrimination in violation of article 25 (c) of the Covenant. It submits that, inasmuch as the author may claim that he has suffered injustices not yet corrected, he has failed to exhaust domestic remedies, as required under article 5 (2) (b) of the Optional Protocol. It explains which remedies would be available to the author, including the remedy of filing an action for damages before the High Court, in respect of his claim for retroactive payment of salary.

In his comments on the State party's submission, the author maintains that (a) he does not have the financial means to file a suit for damages before the High Court, (b) nor is there, according to his legal counsel, any reason to believe that such action would be successful, taking into account the law of Quebec.

The Human Rights Committee, after careful examination of the written information before it, considers that there does not appear to be evidence in substantiation of the author's claim to be a victim of racial discrimination. However, it finds that the communication is inadmissible, because the author has not yet exhausted domestic remedies.

The Human Rights Committee therefore decides:

The communication is inadmissible.