Federal Court  Cour fédérale

Date: 20150717

Docket: T-924-11

Citation: 2015 FC 883

Ottawa, Ontario, July 17, 2015

PRESENT: The Honourable Mr. Justice LeBlanc

BETWEEN:

PAUL ABI-MANSOUR

Applicant

and

CANADA REVENUE AGENCY

Respondent

JUDGMENT AND REASONS

[1] The Applicant seeks judicial review of a decision of the Canadian Human Rights Commission (the Commission) dated May 11, 2011, dismissing his complaint that the Respondent, the Canada Revenue Agency (CRA), discriminated against him on the basis of his national or ethnic origin when he was screened out of an appointment process to staff a position of IT Infrastructure Support Analyst. The complaint was brought pursuant to section 7 of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (the Act).

[2] The Commission found that the Applicant was screened out of the process because he did not meet the education requirements for the position, not because of his national or ethnic origin and concluded, pursuant to subsection 44(3)(b)(i) of the Act, that an inquiry before the Canadian Human Rights Tribunal into the Applicant's complaint was not warranted.

[3] The Applicant claims that the Commission's decision must be set aside on the basis that the Commission was biased, that its investigation was not neutral and thorough, and that it made unreasonable findings of fact based on the evidence before it.

[4] For the Reasons that follow, this application for judicial review is dismissed.

I. Background

A. *The Appointment Process at Issue*

[5] In 2008, CRA initiated a process to staff a CS-01 IT Infrastructure Support Analyst position (Appointment Process Number 2008-7921-HQ-7921). The Applicant applied for the position. The Notice of Job Advertisement (NJO) and Statement of Staffing Requirements (SSR) listed the following educational requirements:

> EDUCATION
>
> A University Degree or College Diploma in Computer Science, Information, Technology, Information Management or another specialty relevant to the position to be staffed**; or
>
> (Alternative) Any other University Degree with a minimum of 3 years relevant IT experience;

> **Individuals who presently occupy or previously occupied a CS position at CRA are deemed to meet this minimum CS Education Standard.

[6] The NJO also specified that the only applicants who would be considered for assessment would be those "who clearly demonstrate on their application that they meet the pre-requisite requirements (area of selection, education & experience) for this position".

[7] In his on-line application for this appointment process, the Applicant indicated he had a degree in Computer Science from Laval University and a Bachelor of Education from the University of Ottawa. As a result, he was screened into the process. Further into that process, all candidates were required to provide proof of education. The Applicant did so by submitting his degree in Education from the University of Ottawa, and a Certificate from the Ontario College of Teachers Qualifications. However, instead of submitting proof of his Computer Science degree from Laval University, the Applicant provided CRA with a copy of his degree from the University of Lebanon in Computer Science.

[8] At that point, pursuant to CRA's Staffing Program Policy, the Applicant's candidacy could have been withdrawn from the appointment process on the basis that he had submitted incorrect information on is on-line application. However, the Applicant was extended the benefit of the doubt and was given the opportunity, in accordance with CRA's CS Education Standard, to either provide a Canadian equivalency of his foreign degree from a recognized credential evaluation organization, or to submit proof that he had a Masters degree from a Canadian University, or that he had been accepted as a candidate in a Canadian University Masters program.

[9] In response to CRA's request, the Applicant chose not to submit proof of equivalency of his foreign degree by a recognized credential evaluation organization. Instead, he asserted that both Laval University and the University of Ottawa had recognized his foreign degree by virtue of the fact they accepted him into what he considered to be Masters Programs. CRA took the view that both programs (Bachelor in Education and "Diplôme de 2ième cycle en génie logiciel") were not Masters Programs. As a result, the Applicant's degree from the University of Lebanon in Computer Science was not taken into consideration in the assessment of the education requirement of the appointment process at issue.

[10] As for the Applicant's degree in Education from the University of Ottawa and his Certificate from the Ontario College of Teachers Qualifications, CRA found these credentials not relevant for the position at issue as they were neither a degree nor a diploma "in another specialty relevant to the position to be staffed". Since the Applicant only had 2.5 years of IT experience, he also did not meet the alternative educational requirement of a minimum of 3 years IT experience.

[11] In the absence of proof of appropriate education or required IT experience, and as the Applicant had no current or previous CRA experience in a CS position, CRA screened him out of the appointment process at issue.

B. ***The Complaint to the Commission***

[12] The Applicant filed his complaint before the Commission in July 2009. The complaint against CRA was dealt with by the Commission under sections 43 and 44 of the Act. The relevant provisions read as follows:

43. (1) The Commission may designate a person, in this Part referred to as an "investigator", to investigate a complaint.	43. (1) La Commission peut charger une personne, appelée, dans la présente loi, « l'enquêteur », d'enquêter sur une plainte.
[…]	[…]
44. (1) An investigator shall, as soon as possible after the conclusion of an investigation, submit to the Commission a report of the findings of the investigation.	44. (1) L'enquêteur présente son rapport à la Commission le plus tôt possible après la fin de l'enquête.
[…]	[…]
(3) On receipt of a report referred to in subsection (1), the Commission	(3) Sur réception du rapport d'enquête prévu au paragraphe (1), la Commission :
(a) may request the Chairperson of the Tribunal to institute an inquiry under section 49 into the complaint to which the report relates if the Commission is satisfied	a) peut demander au président du Tribunal de désigner, en application de l'article 49, un membre pour instruire la plainte visée par le rapport, si elle est convaincue :
(i) that, having regard to all the circumstances of the complaint, an inquiry into the complaint is warranted, and	(i) d'une part, que, compte tenu des circonstances relatives à la plainte, l'examen de celle-ci est justifié,

(ii) that the complaint to which the report relates should not be referred pursuant to subsection (2) or dismissed on any ground mentioned in paragraphs 41(c) to (e); or	(ii) d'autre part, qu'il n'y a pas lieu de renvoyer la plainte en application du paragraphe (2) ni de la rejeter aux termes des alinéas 41c) à e);
(b) shall dismiss the complaint to which the report relates if it is satisfied	b) rejette la plainte, si elle est convaincue :
(i) that, having regard to all the circumstances of the complaint, an inquiry into the complaint is not warranted, or	(i) soit que, compte tenu des circonstances relatives à la plainte, l'examen de celle-ci n'est pas justifié,
(ii) that the complaint should be dismissed on any ground mentioned in paragraphs 41(c) to (e).	(ii) soit que la plainte doit être rejetée pour l'un des motifs énoncés aux alinéas 41c) à e).

[13] In accordance with subsection section 43(1) of the Act, the Commission, upon receipt of the Applicant's complaint, designated an investigator to investigate the complaint (the Investigator). The Investigator examined the documentary evidence submitted by the parties and conducted interviews with the Applicant, a CRA representative, Mr. Pierre Routhier, and the Head of the Evaluation Sector, Admissions Officer, at the University of Ottawa, Ms. Émilie Bertrand.

[14] The Investigator issued his report on January 25, 2011. Having regard to all the circumstances of the complaint, and pursuant to subparagraph 44 (3)(b)(i) of the Act, the Investigator recommended the dismissal of the complaint on the grounds that an inquiry by the Canadian Human Rights Tribunal was not warranted as, in his view, the evidence did not support

the Applicant's allegation that he was screened out of the appointment process because of his national or ethnic origin.

[15] Both the Applicant and the Respondent were provided with the opportunity to comment on the Investigator's report, which they both did. Pursuant to subsection 44(1) of the Act, the Investigator submitted his report to the Commission and, on May 11, 2011, the Commission, after reviewing the Investigator's report as well as the parties' submissions in response to the report, dismissed the Applicant's complaint on the basis that it did not warrant an inquiry. In particular, the Commission found the Applicant's submissions to the Investigator's report to be non-persuasive, and it specially rejected the Applicant's allegation that the Investigator had been bribed so as to influence the reports' recommendation as an "empty allegation" with "no basis whatsoever in the evidence".

II. Issues

[16] What needs to be determined in this case is whether the investigation conducted pursuant section 43 of the Act, which led to the Commission's decision to dismiss the Applicant's complaint, was neutral and thorough, and whether the Commission's decision itself is reasonable based on the evidence before it.

[17] The Applicant also claims that the Investigator was not impartial.

III. Standard of Review

[18] The Commission's role under section 44 of the Act has long been described as a screening function comparable to that of a judge presiding over a preliminary inquiry (*Cooper v Canada (Human Rights Commission)*, [1996] 3 SCR 854, [1996] SCJ No. 115 (QL)). This role, in any given case, is to determine whether an inquiry by the Canadian Human Rights Tribunal is warranted having regard to all the circumstances of the complaint. The central component of that role is that of assessing "whether there is a reasonable basis in the evidence for proceeding to the next stage", not "to determine if the complaint is made out" (*Cooper*, above at paras 52-53; *Syndicat des employés de production du Québec et de l'Acadie v Canada (Canadian Human Rights Commission)*, [1989] 2 SCR 879, [1989] SCJ No. 103, at paras 898-899; *Keith v Correctional Service of Canada*, 2012 FCA 117, at para 43; *Tutty v Canada (Attorney General)*, 2011 FC 57, at para 12; *Dupuis v Canada (Attorney General)*, 2010 FC 511, 368 FTR 269 at para 12). In short, the Commission is not an adjudicative body, this role having been vested by the Act to the Canadian Human Rights Tribunal (*Cooper*, at para 53).

[19] The law on the standard of review applicable to the Commission's decisions to dismiss or refer a complaint as a result of the exercise of this screening function is now well established. As these screening decisions involve a determination of questions of fact or of mixed fact and law, it has been held that they should be reviewed on a reasonableness standard (*Tutty*, above at para 14; *Keith*, above at paras 47-48; *Sketchley v Canada (Attorney General)*, 2005 FCA, 263 D.L.R. (4^{th}) 113, at para 47).

[20] In *Bell v Communications, Energy and Paperworkers Union of Canada*, [1999] 1 FC 113 (FCA), the Federal Court of Appeal held that the Commission had been given "a remarkable degree of latitude when it is performing its screening function on receipt of an investigation report", which meant, as a general rule, that "Parliament did not want the courts at this stage to intervene lightly in the decisions of the Commission" (*Bell*, at para 38; see also *Marciel v Canada (Revenue Agency)*, 2007 FC 244, at para 20; *Attaran v Canada (Attorney General)*, 2013 FC 1132, at para 52; *Herbert v Canada (Attorney General)*, 2008 FC 969, at para 18).

[21] While it needs to be cognizant of the fact that the decision to dismiss a complaint is a final decision precluding further investigation or inquiry under the Act (*Keith*, above at para 48), the Court will not disturb a screening decision by the Commission simply because it might have come to a different conclusion on the evidence. It is not the Court's role either to dissect the Investigator's report on a microscopic level or second-guess the Investigator's approach to his task (*Attaran*, above at para 100; *Guay v Canada (Attorney General)*, 2004 FC 979, 256 FTR 274, at para 36; *Besner v Canada (Attorney General)*, 2007 FC 1076, at para 35). The Court rather will only intervene if the Commission's decision "does not stand up to a somewhat probing analysis" (*Marceil*, above at para 20).

[22] In the context of a review of the fairness of the process, including whether the investigation was thorough and neutral, the standard of review is correctness (*Tutty*, above at para 14; *Mission Institution v Khela*, 2014 SCC 24; [2014] 1 SCR 502; *Joshi v Canadian Imperial Bank of Commerce*, 2014 FC 552, at para 55; *Guerrier v Canadian Imperial Bank of Commerce*, 2013 FC 937, at para 7).

IV. Analysis

[23] I believe it is important, before embarking into the analysis, to underline what fundamentally separates the parties in this case.

[24] The Applicant insists that the "main and only dispute" between the parties is whether his Computer Science degree from the University of Lebanon is equivalent to a degree from Canada (Applicant's Memorandum of Fact and Law, at paras 27 and 29). He claims that this degree has been accepted by the University of Ottawa as equivalent to a Canadian Bachelor's degree and, as a result, the Investigator had no alternative but to find that he met the educational requirement of the appointment process at issue, and that the only reason why he had been screened out of that process had to be related to his national or ethnic origin.

[25] CRA claims that the issue is that the Applicant's foreign degree was not assessed through a recognized credential evaluation organization – here the Canadian Information Centre for International Credentials – as specified in CRA's CS Education Standard, the Applicant having chosen to rely on other evaluations.

A. *The investigation was neutral and thorough*

[26] The Applicant alleges three deficiencies in the investigation.

[27] First, he contends that the Investigator ignored crucial evidence that came from the interview with Ms. Bertrand, from the University of Ottawa, who confirmed that the University

of Ottawa considered the degree he obtained in Lebanon as equivalent to a Canadian Bachelor degree and, therefore, sufficient to enrol him for a Bachelor's degree in Education. The Applicant adds that since his foreign degree was deemed equivalent to a Canadian Bachelor degree, the Bachelor degree he obtained from the University of Ottawa should have been accepted as a Masters degree, since it was his second degree, and thus should have sufficed to retain his candidacy.

[28] I disagree. The Investigator did not ignore this evidence. He noted that the University of Ottawa had indeed determined that the Applicant's foreign degree was equivalent to a Canadian degree but he also noted Ms. Bertrand's evidence that the Bachelor degree in Education completed by the Applicant at that University was an undergraduate program, not a Masters degree program. Therefore, this evidence confirmed the fact that, contrary to his contention, the Applicant had not been accepted in a Masters program at the University of Ottawa. The fact that Ms. Bertrand confirmed that the Applicant's degree from the University of Lebanon had been recognized by the University of Ottawa is irrelevant since the University of Ottawa was not a recognized credential evaluation organization pursuant to CRA's CS Education Standard.

[29] Second, the Applicant submits that the Investigator failed to conduct a thorough and neutral investigation by ignoring the evidence related to the fact he was screened into two other CRA appointment processes for CS positions requiring the exact same education profile as the appointment process at issue. He claims that the fact that he had been screened into these two other processes is evidence that his foreign degree in Computer Science was accepted as being equivalent to a Canadian degree.

[30] Again, this evidence was not ignored by the Investigator. It was considered but given no weight as it was found to be irrelevant to the decision to screen the complaint out of the appointment process at issue. Paragraph 22 of the Investigator's report clearly explains the reasoning for excluding this evidence. It states that although they had the same educational requirements, these two other competitions were run by different individuals in different geographical administrative sections of CRA, were done independently from one another, and would not have had any impact on another appointment process. More importantly, it states that these competitions created pools that have now expired, making it impossible to verify whether the Applicant was properly screened-in, or if more documents, such as proof of enrolment or equivalency, were provided at the time.

[31] I am satisfied that it was open to the Investigator and the Commission to assign no probative value to the fact the Applicant had been screened into these two other appointment processes as the circumstances surrounding the manner in which those processes were conducted could not be verified and, in any event, they were run independently from one another and from the appointment process at issue. As I indicated earlier in these Reasons, the Court will not disturb a screening decision by the Commission simply because it might have come to a different conclusion on the evidence. It will only intervene if the Commission's decision "does not stand up to a somewhat probing analysis" (*Marceil*, above at para 20). Here, with respect to that particular issue, I find that it does.

[32] Finally, the Applicant challenges the thoroughness of the investigation on the basis that the Investigator refused to consider his enrolment at Laval University in a Masters program and did not interview anyone from that University.

[33] I agree with CRA that the Applicant cannot raise, at the complaint stage, his acceptance in a Masters program as an element that should be considered to determine whether he was properly screened out of the appointment process at issue. As CRA points out, this information was not part of his application materials. The Applicant, as indicated earlier, did not even provide proof of his degree in Computer Science from Laval University when required to do so. As a result, the Masters program from Laval University was not considered by CRA when it screened out the Applicant. The Applicant's acceptance in the Masters program of that University was therefore irrelevant for the purposes of assessing the Applicant's complaint making it neither useful nor necessary for the Investigator to obtain Laval University's input.

[34] I find that the Applicant's argument regarding his Masters program from Laval University is unfounded.

[35] The Commission does have a duty to conduct neutral and thorough investigations but here, I am satisfied that the Applicant has failed to identify any serious omissions in the manner in which the investigation was conducted. He was given ample opportunity to respond to the report, his submissions were considered, all the alleged ignored evidence was addressed, and the Investigator was justified not to further pursue the Applicant's contention regarding Laval University. As a result, I agree with CRA that the Commission was provided with an adequate

and fair basis for determining whether a further inquiry into the Applicant's complaint was warranted and that it was justified in relying upon the Investigator's report, together with the responding submissions of the parties, in arriving at its decision.

[36] I see no reason, therefore, to interfere with the Commission's decision on the basis of the alleged deficiencies in the investigation.

B. ***The Commission's decision is reasonable***

[37] The Applicant alleges that the Commission's decision is fatally flawed in three ways.

[38] First, he says that the Investigator applied the wrong test in determining whether the complaint gave rise to a *prima facie* case of discrimination. In particular, he claims that the Investigator ought not to have considered CRA's evidence before determining whether to recommend or not that his complaint be dismissed.

[39] This argument cannot stand. As I already indicated, the Commission has a screening function. Its role is to decide whether a further inquiry into a complaint is warranted or not, based on the evidence adduced before it by both parties. The Commission's function, at this stage, is to conduct an investigation, not to establish a *prima facie* case of discrimination, which is the role of the Canadian Human Rights Tribunal, as evidenced by the Federal Court of Appeal decision in *Lincoln v Bay Ferries ltd*, 2004 FCA 204, a case on which the Applicant is relying in support of his contention.

[40] It is worth reminding that, in that case, the Federal Court of Appeal found that although the Canadian Human Rights Tribunal had taken an incorrect approach for determining the existence of a *prima facie* case of discrimination, it was not fatal to its decision as the overall conclusion that the complaint had not been made out was supported by the evidence (*Lincoln*, above at para 23). Even assuming, therefore, that it was incumbent upon the Commission to establish a *prima facie* case of discrimination in the present case, the fact that the Investigator might not have applied the correct test in that regard would be of no consequence unless it was established that the overall conclusion that an inquiry is not warranted was not supported by the evidence.

[41] That demonstration has not been made. In order to meet the education requirement of the appointment process, the Applicant had to provide proof that he had either a university degree or college diploma in Computer Science, Information, Technology or Information Management or in another specialty relevant to the position to be staffed, or any other university degree, with a minimum of 3 years experience in IT. Since he provided proof of a foreign degree in Computer Science, the Applicant was required to have his degree evaluated for Canadian equivalency through the Canadian Center for International Credentials, or to provide proof that he had a Masters degree from a Canadian university, or that he had been accepted into such a program. These requirements were clearly set out in the NJO.

[42] The evidence on record is that the Applicant insisted that his foreign degree had already been accepted by two Canadian universities, and as such, there was no need for him to go through the equivalency assessment process required by the NJO. However, this is not what was

required by the rules of the appointment process at issue. What was required was proof of equivalency from a credential evaluation organization recognized by the Canadian Center for International Credentials. This requirement was clear and applicable to all candidates to the appointment process at issue. There was no evidence before the Commission that the Applicant had been treated differently than the other candidates with respect to this requirement.

[43] As Ms. Bertrand's evidence was to the effect that the Applicant's Bachelor degree program in Education was an undergraduate program, not a Masters degree program, and as the Applicant did not provide proof of his acceptance into a Masters program at Laval University at the appropriate time, it was open to the Commission to find that the Applicant had neither a Masters degree from a Canadian university nor had he been accepted into such a program, as required by CRA's CS Education Standard. It was also open to the Commission, in my view, to find that the Applicant's Bachelor degree from University of Ottawa or Certificate from the Ontario College of Teachers Qualifications were not university degrees or college diplomas in "Computer Science, Information, Technology or Information Management or in another specialty relevant to the position to be staffed".

[44] It was ultimately the Applicant's responsibility to clearly demonstrate in his application materials that he met all the essential qualifications for the position at issue and that he had complied with the NJO's instructions (*Abi-Mansour v Department of Foreign Affairs*, 2013 FC 1170, at para 88; confirmed *Abi-Mansour v Deputy Minister of Foreign Affairs and International Trade Canada*, 2015 FCA 135). There is evidence on record rationally supporting the finding that he did not.

[45] The Applicant contends – and this is his second point - that CRA's CS Education Standard, if interpreted narrowly, violates section 10 of the Act as it leaves room for discrimination. He claims that this was a crucial element to the assessment of his complaint but it was disregarded by the Investigator. Section 10 of the Act provides that it is a discriminatory practice for an employer to establish or pursue a policy or practice that deprives or tends to deprive an individual or class of individuals of any employment opportunities on a prohibited ground of discrimination.

[46] The difficulty with this argument is that it did not form part of the Applicant's complaint to the Commission. This is a new argument. As CRA points out, the duty to investigate requires the Commission to deal with the essential or fundamental aspects of a complaint. The section 10 argument was not one of them, and the Commission was under no obligation to contemplate it.

[47] Finally, the Applicant claims that the Commission did not provide sufficient reasons in its decision to dismiss his complaint. This claim cannot stand. It is true that the Commission's reasons for decision are brief but they make direct reference to the Investigator's report as forming part of the Commission's decision. Investigations reports have been held by this Court to form a part of the Commission's reasons where the Commission renders a decision consistent with the recommendation of its investigator (*Sketchley v Canada (Attorney General)*, 2005 FCA 404, [2006] 3 FCR 392 at para 37; *Tutty v Canada (Attorney General)*, 2011 FC 57, 382 FTR 227, at para 13). (*Tutty*, above, at para 14). This is the case here.

[48] In addition, the Commission did refer in its reasons to the Applicant's responding submissions to the Investigator's report as being non-persuasive, indicating thereby that it had indeed considered them. Reasons for decisions are sufficient if they allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708, at para 16).

[49] I find that, as a whole, the Commission's reasons for decision meet these requirements.

C. *No reasonable apprehension of bias*

[50] The Applicant claims that the Investigator has given legal advice to CRA and decided to dismiss his complaint before completing the investigation, giving rise to a reasonable apprehension of bias. He does not seem to be pursuing his initial allegation that the Investigator was bribed, an allegation vehemently denied by the Commission.

[51] The burden of demonstrating either the existence of actual bias or of a reasonable apprehension of bias rests on the party alleging bias. As an allegation of bias is a very serious allegation since it challenges the integrity of the decision-maker whose decision is at issue, the burden of proof is high. Mere suspicion of bias is therefore not sufficient to establish actual bias or a reasonable apprehension of bias. (*R v RDS*, [1997] SCR 484, at para 112). Furthermore, considering the non-adjudicative nature of its screening function, the Commission is not bound by the same standard of impartiality as are the courts. The applicable test is therefore not whether there exists a reasonable apprehension of bias on the part of the Investigator but whether

the Investigator "approached the case with a closed mind" (*Sanderson v Canada (Attorney General)*, 2006 FC 447, 290 FTR 83, at para 75; *Gerrard v Canada (Attorney General)*, 2010 FC 1152 at para 53; *Gosal v Canada (Attorney General)*, 2011 FC 570, at para 51).

[52] I find that the evidence submitted by the Applicant does not support his allegation of bias. He has not even provided support for a suspicion of bias. Besides his own bare allegations, he has not shown that the Investigator provided legal advice to CRA or predetermined his complaint by approaching it with a closed mind.

[53] In fact, to show that legal advice was provided to CRA, the Applicant relies on a phrase found in the written notes from a phone call between the Investigator and Mr. Routhier from CRA which says "I explained that CRA has provided information to prove its case". The Applicant contends that this statement, made at an early stage of the investigation, shows bias on the part of the Investigator. However, this statement is taken completely out of context. That context was that CRA had raised a preliminary objection, under subsection 41(1)(d) of the Act, that the Commission shall not deal with the Applicant's complaint because it was "trivial, frivolous, vexatious or made in bad faith". As CRA had already provided its defence on the merits of the complaint, the Investigator explained that "it would be easier to investigate than do a section 41 Report".

[54] It seems clear to me that what the Investigator was discussing here was that both parties had already submitted evidence, and that the investigation on the substance of the complaint could not proceed as the preliminary objection would need to be addressed first. As CRA points

out, if anything, the Investigator's concern was to avoid delaying the investigation on the substance of the complaint when everything was in place to proceed with it. He was not providing "legal advice" to the Respondent.

[55] The Applicant's allegation that the Investigator has predetermined his complaint is not supported by the evidence either. In that regard, the Applicant claims that the Investigator refused to see his point of view and that had he done so, he would have had no choice but to send the complaint to the Tribunal. Instead, he claims, the Investigator "could only see the respondent's bald arguments and false evidence and nothing else" (Applicant's Supplementary Memorandum of Fact and Law, at para 9).

[56] The fact the Investigator came to the conclusion that there was no evidence that the Applicant was screened out because of his national or ethnic origin is not evidence that he approached the Applicant's complaint with a closed mind. The fact he found the Applicant's allegations and submissions to be non-persuasive is not evidence either that he had pre-determined the case. The Investigator was entitled to disagree with the Applicant's position.

[57] In summary, a reasonable person would not think that the Investigator did not have an open mind when he investigated the Applicant's complaint. The allegation of bias is therefore dismissed as is the Applicant's judicial review application.

[58] Given the outcome of this proceeding, costs should normally be awarded against the Applicant. The Applicant urges me however not to grant costs to CRA as Counsel for CRA have

adopted, according to him, a strategy based on “lying and defamation”, “patently unreasonable” arguments and “bald manipulations” (Applicant’s Supplementary Memorandum of Fact and Law, at para 25).

[59] It goes without saying that these allegations are of the most serious nature. Being totally unsubstantiated, they are clearly abusive. The Applicant seems to have developed a habit of systematically attacking those who disagree with his positions, including members of the Court. This is obviously unacceptable.

[60] In the present case, this means, at the very least, that I shall not exercise my discretion to depart from the general rule that costs should follow the event. The judicial review application is therefore dismissed with costs to CRA.

JUDGMENT

THIS COURT'S JUDGMENT is that this application for judicial review be dismissed, with costs to the Respondent.

"René LeBlanc"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-924-11
STYLE OF CAUSE:	PAUL ABI-MANSOUR v CANADA REVENUE AGENCY
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	NOVEMBER 24, 2014
JUDGMENT AND REASONS:	LEBLANC J.
DATED:	JULY 17, 2015

APPEARANCES:

Paul Abi-Mansour	FOR THE APPLICANT (On his own behalf)
Talitha A. Nabbali	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Self-represented	FOR THE APPLICANT
William F. Pentney Deputy Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT