

DECISION: I-06-0068-01

FILE: 2006-0068

OTTAWA, SEPTEMBER 11, 2006

CHANTAL JOLIN

COMPLAINANT

AND

THE DEPUTY HEAD OF SERVICE CANADA

RESPONDENT

AND

OTHER PARTIES

MATTER Request for order for provision of information

DECISION The request is dismissed

DECISION RENDERED BY Sonia Gaal, Vice-Chair

INDEXED *Jolin v. Deputy Head of Service Canada et al.*

NEUTRAL CITATION 2006 PSST 0006

REASONS FOR DECISION

BACKGROUND

[1] On July 13, 2006, Chantal Jolin filed a complaint under section 77(1) of the *Public Service Employment Act (PSEA)* with the Public Service Staffing Tribunal (the Tribunal) following two indeterminate appointments made on or around July 10, 2006 at Service Canada through an advertised process (No. 2006-REH-IA-NHQ-33004). The Tribunal received a request for an order for provision of information on August 23, 2006 under subsection 17(3) of the *Public Service Staffing Tribunal Regulations (the PSST Regulations)*.

[2] The complainant applied for the position of "Manager National Human Resources Projects" at Service Canada. The competition was open to employees of the Public Service of Canada occupying a position in Canada. She was not screened in for the position.

[3] At the candidate screening stage, the Deputy Head used an assessment tool that she called the "In-Basket Exercise 810." Ms. Jolin did not qualify because she did not obtain the minimum pass mark required to move on to the next stage of the assessment.

[4] With regard to the exchange of information between the parties, the Deputy Head provided almost all the information requested by the complainant. However, she refused to inform her of the weight assigned to the In-Basket Exercise 810 in the overall scoring of the assessment process. In addition, she refused to provide the complainant with a complete copy of the rating guide.

ISSUES

[5] The Tribunal must answer the following questions:

- i) Is the weight assigned to the In-Basket Exercise 810 in the overall scoring of the assessment process relevant?
- ii) Is the rating guide relevant?

SUBMISSIONS OF THE PARTIES

[6] The complainant maintains that she cannot develop allegations without the documents or information in question. With regard to the pass mark, she says that she was assessed only by one tool, namely, the In-Basket Exercise 810, and that it is impossible for her to determine whether the choice and use of the tools affected her adversely.

[7] The complainant also indicates that she cannot understand the department's explanation that the rating guide is a reference to be used for "a higher level in the assessment of the qualities required, taking into account the Service Canada context [translation]." Moreover, she indicates that the guide will enable her to understand the expression "a progressive stage-based assessment approach [translation]" used by the Deputy Head in her response.

[8] The Deputy Head claims that the weight assigned to the In-Basket Exercise 810 in the overall scoring of the assessment process is not relevant because the complainant was not successful at that stage of the process. Indeed, even if she had been successful in the other stages, this would not have compensated for her failure in the In-Basket Exercise 810.

[9] The Deputy Head states that the rating guide was used in the assessment for the interview and reference checks. Since the complainant did not make it to those stages of the process, the information contained in the document is irrelevant.

ANALYSIS

[10] According to the French version¹ of subsection 17(4) of the *PSST Regulations*, the Tribunal's authority in the case of a request for an order for provision of information is as follows:

17.(4) S'il est d'avis que les renseignements sont *pertinents* et que leur communication ne présente aucun des risques mentionnés aux alinéas (1) a) à c), le Tribunal ordonne qu'ils soient communiqués, selon le cas, au plaignant, à l'administrateur général ou à la Commission. **[emphasis added]**

[11] Relevance is the essential element for ordering the provision of the document or information requested. The *Petit Robert* dictionary (2004) defines "*pertinent*" as "having reference to the matter, relating to the very substance of the matter [translation]."

[12] The burden is on the complainant to show how the weight assigned to the In-Basket Exercise 810 in the overall scoring of the assessment process and the rating guide are relevant to her complaint of abuse of authority in the application of merit.

¹ The English version does not contain the concept of *pertinence* (relevance). Subsection 17(4) reads: "17. (4) If the Tribunal is satisfied that the provision of the information will not present any of the risks referred to in paragraphs (1)(a) to (c), the Tribunal must order that the information be provided to the complainant or the deputy head or the Commission."

Section 13 of the *Official Languages Act*, R.S., 1985, c. 31 (4th Supp.), provides that both language versions are equally authoritative:

13. Any journal, record, Act of Parliament, instrument, document, rule, order, regulation, treaty, convention, agreement, notice, advertisement or other matter referred to in this Part that is made, enacted, printed, published or tabled in both official languages shall be made, enacted, printed, published or tabled simultaneously in both languages, and both language versions are equally authoritative.

i) In-Basket Exercise 810

[13] According to section 36 of the *PSEA*, it is clear that the right to decide on the method for assessing candidates falls to the Public Service Commission (PSC), or to the Deputy Head when the PSC's powers and functions are delegated, which is the case here

36. In making an appointment, the Commission may use any assessment method, such as a review of past performance and accomplishments, interviews and examinations, that it considers appropriate to determine whether a person meets the qualifications referred to in paragraph 30(2)(a) and subparagraph 30(2)(b)(i).

[14] In this case, the Deputy Head decided to use the In-Basket Exercise 810 as a screening tool for all candidates, followed by other steps after successful completion of the In-Basket Exercise 810. Although the complainant argues that it is impossible for her to determine whether the choice and use of tools affected her adversely, the *PSEA* expressly provides that the Commission or the Deputy Head has authority regarding the choice and use of tools.

[15] Nonetheless, the complainant did not qualify following the In-Basket Exercise 810; therefore, she was not assessed in the later steps. Since she was not subsequently assessed, the overall scoring had no impact on the assessment of the complainant in the In-Basket Exercise 810. Therefore, the weight assigned to the In-Basket Exercise 810 in the overall scoring of the assessment process changes nothing to her situation and is therefore irrelevant to her complaint.

ii) Rating guide

[16] According to the Deputy Head, the rating guide is used in the assessment for interviews and reference checks. Since Ms. Nolin did not proceed to those steps, the Tribunal does not see how the document is relevant to her case.

[17] With regard to her claim that she does not understand the terminology used by the Deputy Head, the Tribunal encourages the complainant to contact a human resources representative to discuss the matter.

DECISION

[18] For all these reasons, the Tribunal dismisses the request for an order for provision of information.

Sonia Gaal
Vice-Chair

PARTIES OF RECORD

Tribunal File:	2006-0068
Style of Cause:	Chantal Jolin and the Deputy Head of Service Canada <i>et al.</i>
Hearing:	Written request; decision made without appearance of parties
Date of reasons:	September 11, 2006