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*Public Service  
Staff Relations Act*

Before an adjudicator

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BETWEEN

**ROBERT BERTHIAUME, HÉLÈNE PETIT, LUIGI FAUCITANO, JOHANNE CHIQUETTE,  
NATHALIE BISSONNETTE, MARTIN LESSARD, DANIEL OUELLET, CHANTAL  
FARMER, PIERRE LACASSE, CANDIDO POMAR AND HÉLÈNE LAPIERRE**

Grievors

and

**TREASURY BOARD  
(Department of Agriculture and Agri-Food)**

Employer

Indexed as

*Berthiaume et al. v. Treasury Board (Department of Agriculture and Agri-Food)*

In the matter of grievances referred to adjudication pursuant to section 92 of the  
*Public Service Staff Relations Act*, R.S.C. 1985, c. P-35

**REASONS FOR DECISION**

***Before:*** [Jean-Pierre Tessier, Adjudicator](#)

***For the Grievors:*** [Pierrette Gosselin, Professional Institute of the Public Service of  
Canada](#)

***For the Employer:*** [Stéphane Hould, Counsel](#)

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Heard at Sherbrooke, Quebec,  
May 25 and 26, 2006.  
(P.S.L.R.B. Translation)

Grievances referred to adjudication

[1] The present case involves 11 professionals in the Scientific Research (SE-RES) group ("the grievors") who work in the Research Branch of the Department of Agriculture and Agri-Food ("the employer").

[2] In May 2004, the grievors claimed reimbursement of membership fees in a professional association, which the employer refused on the ground that such fees could be reimbursed only "when the payment of such fees is a requirement for the continuation of the performance of the duties of [the] position."

[3] The present grievances were referred to adjudication in January 2005; the hearing was held on May 25 and 26, 2006.

[4] On April 1, 2005, the *Public Service Labour Relations Act*, enacted by section 2 of the *Public Service Modernization Act*, S.C. 2003, c. 22, was proclaimed in force. Pursuant to section 61 of the *Public Service Modernization Act*, these references to adjudication must be dealt with in accordance with the provisions of the *Public Service Staff Relations Act*, R.S.C. 1985, c. P-35 ("the former Act").

Summary of the evidence

[5] The 11 grievances lodged by the grievors were heard on common evidence. The grievors are employed as scientific researchers (SE-RES group). Four of them testified at the hearing. The grievors hold master's degrees in science or biology, or doctorates in animal science.

[6] Pierre Lacasse carries out research studies on the mammary gland in cows. He is a member of the Canadian Society of Animal Science (CSAS) and the American Dairy Science Association. He has published many articles in scientific journals and has been a guest speaker at various scientific conferences (Exhibit F-5).

[7] Dr. Lacasse adduced his resumé (Exhibit F-5), which lists the amounts of research grants he obtained from 1996 to 2006. The amounts of these grants vary between \$6,000 and \$300,000; in his opinion, this funding constitutes a contribution to the Department of Agriculture and Agri-Food.

[8] Dr. Lacasse pointed out that the employer encourages its scientific researchers to participate in scientific associations and reimburses the cost of their participation in

conferences and symposia. However, the employer refuses to reimburse the cost of membership in these associations.

[9] Luigi Faucitano is a scientific researcher in the field of meat quality. He testified about the need for scientific researchers to be members of scientific associations. These associations present awards to scientific researchers and, in Dr. Faucitano's opinion, whether employees have received awards is taken into consideration when applications for promotions are being examined. In support of this statement, he adduced a promotion recommendation form on which the selection board states that he did not meet certain criteria (Exhibit F-18). Mr. Faucitano noted that these criteria have to do with participating in professional associations and receiving awards or honourable mentions for the quality of one's research studies.

[10] Daniel Ouellet carries out research studies on the nutrition of dairy cows. Dr. Ouellet noted that his participation in the CSAS allows him to exchange views with colleagues and to publish the results of his research studies in the form of articles.

[11] Chantal Farmer carries out research studies on sows. She argued that participation in a scientific society is necessary in order to obtain promotions. Members of scientific societies recommend that other members receive awards. Dr. Farmer is a member of scientific societies, has occupied management-level positions and is currently the editor of a scientific journal whose direction is sponsored by the CSAS.

[12] Indeed, the CSAS sponsors the publication of a scientific journal whose advisory committee makes recommendations about whether given articles should be published. Scientific researchers can publish articles at reduced cost. Dr. Farmer noted that, since the employer covers the cost of publishing articles, this financial benefit is an advantage for the employer.

[13] With regard to career planning, in Dr. Farmer's opinion, participating in scientific societies, publishing articles and receiving awards are very important factors. She has sat on promotion boards, which in her opinion take these factors into consideration. In fact, the employer's promotion examination guide (Exhibit F-15) refers to various criteria that are set out in detail and include receiving awards, publishing articles and being recognized by scientific societies.

[14] On the other hand, the employer called as a witness Gilles Saindon, now Director General of the Science Bureau and formerly a director of research. Dr. Saindon testified from Ottawa by means of a conference call. A union representative present with Dr. Saindon identified him and stated that Dr. Saindon was not accompanied by any other employer representative while testifying.

[15] Generally speaking, Dr. Saindon confirmed that it is in scientific researchers' interest to be members of an association. He himself was a member of associations while completing his doctoral studies, for several years while occupying scientific researcher positions and while working as the director of a research centre for the Department of Agriculture and Agri-Food. He ceased being a member of these associations only recently.

[16] Dr. Saindon emphasized that he never claimed reimbursement of his association membership fees from his employer. Similarly, as the director of a research centre, he was never required to reimburse the scientific researchers working under him for their association membership fees. That said, he realized that some centres reimbursed scientific researchers for their association membership fees.

[17] In Dr. Saindon's opinion, participation in associations is part of scientific researchers' career development. Participation in symposia allows them to meet other scientists and become known. The results of research studies are often presented and published through these associations.

[18] With regard to promotion criteria and specifically the employer's 2004-2005 promotion examination guide (Exhibit F-15), Dr. Saindon noted that scientific researchers must meet three of the five criteria. Particularly with regard to the criterion of [translation] "recognition" or reputation in the scientific community, the sub-criteria are not evaluated separately but as a unit.

[19] With regard to the claim for reimbursement of association membership fees, Dr. Saindon stated that, while association membership is helpful, it is not a requirement for the continuation of the performance of scientific researchers' duties. In some professions such as medicine, law and engineering, the existence of a professional order requires association membership as a condition of professional practice, but that is not so in the present case.

Summary of the arguments

[20] The grievors' representative acknowledged that in the present case there is no professional order governing the grievors' professional practice.

[21] The grievors' representative argued that, in order to perform their duties effectively, the grievors owe it to themselves to be members of an association. She acknowledged that in the present case the grievors' claim for reimbursement of membership fees is limited to a single association.

[22] Participation in an association allows scientific researchers to meet other scientists, become better known and publish articles in scientific journals. Scientific researchers' competence contributes to the reputation of the Department of Agriculture and Agri-Food in terms of the services the Department provides to taxpayers and to the industry.

[23] It should be noted that the employer's promotion criteria include participating in scientific societies, publishing articles in scientific journals and receiving awards.

[24] The employer, on the other hand, based its arguments on the wording of clause 22.01 of the applicable collective agreement between the Treasury Board and the Professional Institute of the Public Service of Canada (Research Group), maintaining that, if association membership fees are to be reimbursed, membership must be a requirement for the performance of the duties of the position:

*22.01 The employer shall reimburse an employee for his payment of membership or registration fees to an association or governing body when the payment of such fees is a requirement for the continuation of the performance of the duties of his position.*

Reasons

[25] The grievors claimed reimbursement of their membership fees in a professional association because, in their opinion, association membership is a requirement for the continuation of the performance of the duties of their position.

[26] The evidence adduced by the grievors has established that association membership significantly contributes to the quality of the performance of their duties. Association membership allows them to meet other scientists, discuss progress in

research, make their work known, enjoy greater recognition, have their scientific articles selected for publication, and receive awards and honourable mentions.

[27] In order to meet the requirements set out in clause 22.01 of the collective agreement, the grievors must establish that association membership is a requirement for the continuation of the performance of the duties of their position.

[28] Although association membership can help scientific researchers have articles published, nothing in the evidence has established that scientific researchers must publish an article every year or receive an award or honourable mention every year in order to continue to perform the duties of their position.

[29] The evidence adduced has established that, with regard to career planning, in, for example, a 10-year career plan, scientific researchers must endeavour to publish articles, receive awards and become known, which benefits the employer as much as the researchers.

[30] It has also been established that association membership reduces the cost of publishing scientific articles. Since the employer covers the cost of publishing articles, this financial benefit is an advantage for the employer. This fact may be an incentive for the employer to fund more of the costs of conference participation, article publication and possibly association membership. Still, the fact that the employer does not reimburse association membership fees does not prevent the grievors from continuing to perform the duties of their position.

[31] The following case law confirms that membership in an association must be a requirement for the performance of the duties of the position: *Katchin v. Canadian Food Inspection Agency*, 2004 PSSRB 26; *The Queen in right of Canada v. Lefebvre et al.*, [1980] 2 F.C. 199 (C.A.); *Jolie v. Treasury Board (Revenue Canada - Taxation)*, Board files no. 166-2-21409, no. 166-2-21410 and no. 166-2-21432 (19910920) (QL); and *Rosendaal et al. v. Treasury Board (Revenue Canada - Taxation)*, Board files no. 166-2-22291, no. 166-2-23143 and no. 166-2-23144 (19930506) (QL). In *Rosendaal et al.*, the grievance adjudicator noted the burden-of-proof requirement placed on the grievors by the collective agreement. This requirement reads as follows:

...

*The determination of these grievances, however, must be based on the requirements of the collective agreement. In that respect, the grievors have not demonstrated that the maintenance of their professional designation was a requirement for the continuation of the performance of the duties of their positions and, for that reason, the grievances must be denied.*

. . .

[32] For all of the above reasons, I make the following order:

*(The Order appears on the next page.)*

Order

[33] The grievances are dismissed.

January 10, 2007.

P.S.L.R.B. Translation

**Jean-Pierre Tessier,  
Adjudicator**