



Public Service
Staffing Tribunal

Tribunal de la dotation
de la fonction publique

Files: 2010-0730, 0733, 0734;
2011-0118, 0119, 0239,
0362, 0363, 0986
Issued at: Ottawa, March 28, 2012

PAUL ABI-MANSOUR

Complainant

AND

**THE DEPUTY MINISTER OF FOREIGN AFFAIRS
AND INTERNATIONAL TRADE CANADA**

Respondent

AND

OTHER PARTIES

Matter	Complaints of abuse of authority pursuant to section 77(1)(a) of the <i>Public Service Employment Act</i>
Decision	Complaints are dismissed
Decision rendered by	Joanne B. Archibald, Member
Language of Decision	English
Indexed	<i>Abi-Mansour v. Deputy Minister of Foreign Affairs and International Trade Canada</i>
Neutral Citation	2012 PSST 0008

Reasons for Decision

Introduction

1 Paul Abi-Mansour, the complainant, applied in an internal advertised appointment process for an information technology position (the CS-02 position) with Foreign Affairs and International Trade Canada (DFAIT) in Ottawa, Ontario. He alleges that the Deputy Minister of DFAIT (the respondent) abused its authority by discriminating against him on the basis of his race and/or national or ethnic origin by finding him not qualified, by failing to apply the organizational need criterion, and by appointing two candidates who did not meet the education requirement.

2 The respondent denies the allegations and states that the complainant was screened from the appointment process as he did not meet the education requirement. Organizational needs were applied where appropriate to the individual appointments that were made. Further, the two appointees in question met the education requirement.

3 The Public Service Commission (PSC) did not appear at the hearing, but did present a written submission in which it discussed relevant PSC policies and guidelines concerning assessment and selection, and employment equity, among others. It took no position on the merits of the complaints.

4 For the reasons below, the complaint is dismissed. The Public Service Staffing Tribunal (the Tribunal) finds no evidence of discrimination in the decision to eliminate the complainant from the appointment process. While the complainant established a *prima facie* case of discrimination, the respondent has provided a reasonable explanation of its decision to find him not qualified. The Tribunal finds no abuse of authority in the respondent's application of the organizational need criterion, and no evidence that unqualified candidates were appointed.

Background

5 The respondent posted a Job Opportunity Advertisement (JOA) on *Publiservice* for the CS-02 appointment process with a closing date of January 15, 2010. The complainant was one of 332 applicants who responded.

Based on the respondent's uncontested screening report, 104 candidates self-identified on their application documents as members of "designated groups", within the meaning of the *Employment Equity Act*, S.C. 1995, c. 44. These groups comprise women, aboriginal peoples, persons with disabilities and members of visible minorities. Thirty four individuals self-identified as visible minorities, which constitutes 10.2% of all candidates.

6 Applications were initially screened against the education and experience requirements. The complainant was screened out of the appointment process on the basis that he did not meet the education requirement. After being informed of the decision, he submitted copies of his educational credentials to the respondent. The screening decision was not reconsidered.

7 At the conclusion of the assessment process, 29 candidates were determined to be qualified. On November 30, 2010, three appointments were made. On December 10, 2010, the complainant filed complaints under s. 77 of the *Public Service Employment Act*, S.C. 2003, c. 22, ss. 12, 13 (the PSEA). Nine further appointments were made and the complainant filed complaints in the cases of six of them. The complaints were consolidated for the purpose of these proceedings, in accordance with s. 8 of the *Public Service Staffing Tribunal Regulations*, SOR/2006-6, as amended by SOR/2011-116.

8 The complainant provided notice to the Canadian Human Rights Commission (CHRC) in accordance with s. 78 of the PSEA to indicate that he intended to raise an issue involving the interpretation of application of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6 (CHRA). Prior to the hearing, the CHRC advised that it would not attend or make submissions in this matter.

Issues

9 The Tribunal must determine the following issues:

- (i) Did the respondent abuse its authority by discriminating against the complainant in this appointment process?

- (ii) Did the respondent abuse its authority by failing to apply organizational requirements?
- (iii) Did the respondent abuse its authority in the application of merit by appointing candidates who did not meet the education requirement?

Analysis

Issue I: Did the respondent abuse its authority by discriminating against the complainant in this appointment process?

10 Section 80 of the PSEA provides that in considering whether a complaint is substantiated under s. 77, the Tribunal may interpret and apply the CHRA.

11 Section 7 of the CHRA provides that it is a discriminatory practice to directly or indirectly refuse to employ or continue to employ any individual, or, in the course of employment, to differentiate adversely in relation to an employee, on a prohibited ground of discrimination. Section 3 of the CHRA lists the prohibited grounds of discrimination, including race, and national or ethnic origin.

12 The complainant declared at the hearing that he emigrated to Canada from Lebanon and that he is of Middle Eastern descent. He alleges that the respondent screened him out on the basis of education because it recognized his name as Middle Eastern and refused to acknowledge his foreign credentials. It is his view that the decision was based on race and/or national or ethnic origin.

13 In order to establish that the respondent engaged in a discriminatory practice in the course of dealing with the complainant's candidacy, the complainant must first establish a *prima facie* case of discrimination as described by the Supreme Court of Canada in *Ontario Human Rights Commission v. Simpsons Sears Ltd.*, [1985] 2 S.C.R. 536 ("O'Malley").

14 A *prima facie* case is one that covers the allegations made and which, if the allegations are believed, is complete and sufficient to justify a finding in the complainant's favour, in the absence of an answer from the respondent. Once a *prima facie* case is made, the onus then shifts to the respondent to disprove

the allegations or provide some other reasonable explanation. The Tribunal cannot take into consideration the respondent's answer before determining whether a *prima facie* case of discrimination has been established. (see: *Lincoln v. Bay Ferries Ltd.*, [2004] F.C.A. 204, at para. 22).

15 It is not necessary that discriminatory considerations be the sole reason for the actions at issue in order for the complaint to be substantiated. The complainant need only show that discrimination is one of the factors in the respondent's decision (see *Holden v. Canadian National Railway Company* (1991), 14 C.H.R.R. D/12, (F.C.A.) at para. 7).

16 A number of decisions have served to illustrate the kind of evidence that may be used to establish a *prima facie* case of discrimination. In *Shakes v. Rex Pak Ltd.*, (1981) 3 C.H.R.R. D/1001, where it was alleged that an employer refused to employ the complainant, the Ontario Board of Inquiry set out three factors to be considered:

- that the complainant was qualified for the particular employment;
- that the complainant was not hired;
- that someone no better qualified but lacking the distinguishing feature, which is the basis of the complaint of discrimination, subsequently obtained the position.

17 While the *Shakes* test can be a useful guide, it should not be automatically applied in a rigid or arbitrary fashion in every case alleging discrimination in a hiring process. The circumstances of each case should be considered to determine whether this test may either be applied in its original form or adapted to suit the case. See for example *Sangha v. Mackenzie Valley Land and Water Board*, 2006 CHRT 9, at para. 194; rev'd on the question of remedy only, 2007 FC 856. The question that must ultimately be determined is whether a *prima facie* case has been established within the meaning of *O'Malley*. (see *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2005 FCA 154 at paras. 25-30, ("*Morris*").

18 The issue in the case before the Tribunal is the assessment of the education qualification that was used for the purpose of screening applications. It was only one of many assessment steps in the entire CS-02 appointment process. As such, answering the question of whether a candidate meets the education qualification does not determine whether a candidate is ultimately qualified for appointment to the CS-02 position. Accordingly, the Tribunal finds the following adaptation of the *Shakes* test to be appropriate for determining whether a *prima facie* case has been established in the present case:

- that the complainant possessed the qualification at issue that was established for the particular appointment process;
- that the complainant was eliminated from consideration on the basis that he did not possess that qualification;
- that a candidate no better qualified, but lacking the distinguishing feature, which is the basis of the complaint of discrimination, was found to possess that qualification.

Has the complainant established a prima facie case?

19 The complainant was screened out of this appointment process on the basis that he did not meet the education requirement of successful completion of two years of an acceptable post-secondary educational program in computer science, information technology, information management or another specialty relevant to the CS-02 position (the education requirement).

20 Pursuant to s. 31(1) of the PSEA, the Treasury Board of Canada Secretariat, as the employer, is responsible for establishing qualification standards with respect to the work to be performed in the public service. With respect to the Computing Science or CS group, the minimum education requirement described in the qualification standard is identical to the education requirement set out in the JOA and the Statement of Merit Criteria (SMC).

21 The complainant disputes the respondent's conclusion that he does not meet the education requirement. To address it, he presented copies of four documents. The first is a transcript from Université Laval showing that he was admitted to a program entitled *Diplôme de deuxième cycle en génie logiciel*. It indicates that he was admitted to the program on the basis of a diploma obtained in Lebanon and it shows the completion of three courses at Université Laval. The second document is a certificate from the Université Libanaise indicating that the complainant completed the requirements for the four year degree *Maîtrise ès sciences* in applied mathematics, option: computer science. The third document is a transcript from the University of Ottawa, indicating that the complainant received a baccalaureate in education. The fourth document is a Certificate of Qualification from the Ontario College of Teachers stating that he holds the aforementioned degrees from Université Libanaise and the University of Ottawa and indicating that his teaching qualifications are for intermediate and senior divisions, computer science and mathematics.

22 The complainant further notes that his degree from the Université Libanaise was accepted for admission to programs at both Université Laval and the University of Ottawa. The respondent does not dispute that the Université Libanaise is a recognized educational institute for the purpose of the CS education requirement.

23 The respondent did not dispute whether the credentials presented by the complainant would have been accepted for that purpose.

24 Returning to the test set out above, the Tribunal is satisfied on the evidence before it that the complainant possesses the education qualification for the CS-02 position.

25 The second part of the test is also satisfied. The evidence before the Tribunal demonstrates that the complainant was eliminated from consideration on the basis that he did not meet the education qualification for the CS-02 position.

26 Regarding the third component of the test, the complainant must establish that a candidate no better qualified, but lacking the distinguishing feature, which is the basis of the complaint of discrimination, was found to possess the education qualification.

In this respect, the complainant has addressed the education qualifications of two of the appointees, namely Candidates 191 and 279, as they were identified in the respondent's documents. Candidate 191 self-identified in his application document as a member of a visible minority and, as a result, the evidence does not establish that this candidate lacks the distinguishing feature that is the basis of the complaint. However, Candidate 279 did not self-identify as a member of any designated group and for the purpose of considering the *prima facie* case, the Tribunal has therefore assumed that he is not a member of a visible minority group. As such, he is a person who, while lacking the distinguishing feature that is the basis of the complaint, was found to have the same qualification that the complainant also possesses. The third part of the test is met.

27 Therefore, the Tribunal finds that the evidence led by the complainant would be complete and sufficient to justify a verdict in his favour **in the absence of an answer from the respondent**. However, as discussed below, the respondent has provided a full and reasonable explanation of the disposition of the complainant's candidacy in this appointment process.

Has the respondent provided a reasonable explanation for its decision to eliminate the complainant from the appointment process?

28 The JOA posted by the respondent contained instructions to candidates (the instructions), which are reproduced below in the format in which they appeared in the original text:

Candidates must include a covering letter. Candidates must clearly demonstrate IN THEIR COVERING LETTER how they meet the education and experience factors listed in the essential qualifications and asset qualifications. Candidates must use these factors as headers and then write one or two paragraphs demonstrating in clear and precise detail how they meet the qualifications required. Resumes may be used as a secondary source to validate the education and experience described in the cover letter. FAILURE TO PROVIDE THIS INFORMATION IN THE REQUESTED FORMAT WILL RESULT IN YOUR APPLICATION BEING REJECTED.

29 The instructions were also included in the SMC that was available to all candidates.

30 Sergine Daoust, Director of Signet Operations Division for DFAIT, was the respondent's delegated manager for this appointment process. On March 17, 2010, she sent an email to ask the individuals who were screening applications to complete their work before March 25, 2010. She reminded them that "in their cover letter, the candidates must demonstrate how they meet both the education and experience otherwise their application is rejected."

31 Robert Miron, Director of Electronic Messaging for DFAIT, participated as a board member for this appointment process. He stated at the hearing that he assisted in developing the SMC and all aspects of the assessment. In addition, he hired candidates from the resulting qualified pool.

32 Mr. Miron described the manner of screening candidates. Applications were organized alphabetically and divided among nine teams of two members each to consider education and experience. The team approach was used because of the volume of applications and because it was considered to be efficient, consistent and fair to have two people going through the applications. If they could not decide, they could bring the application to a meeting of the entire assessment board.

33 Mr. Miron stated that the instructions to the teams were very clear. In accordance with the JOA, the experience and education had to be set out and explained in the candidate's covering letter. If the team found that the experience or education was missing from the covering letter or if the candidate's description did not meet the requirements for education or experience, the candidate was removed from the process. Mr. Miron stated that 35 candidates were screened out because they failed to mention their education in their covering letters. A further 25 candidates were eliminated because the description of their education did not satisfy the position requirements.

34 The complainant acknowledged that the instructions were clearly stated, but added that he overlooked them as it was not his usual practice to put his education in the covering letter. Instead of including his education in his covering letter, he wrote in his résumé that he had a degree in applied science although he did not mention

his computer science option. He considered that computer science should have been inferred from his degree.

35 Sue Fata, Manager of Secure Systems Operations for DFAIT, testified that she screened applications in the assessment process for candidates with surnames beginning with “A” and “B” including the complainant’s application. She identified a notation she made on his application document at the time of screening in which she wrote that he did not mention his education in his covering letter. In compliance with the screening protocol for the appointment process, she screened his application out and eliminated him from further consideration.

36 On May 4, 2010, the complainant received an email from Geneviève Bégin Martineau, Senior Human Resources (HR) Advisor, informing him that he had been found not to meet the education requirement, inviting him to contact her if he wanted additional information, and advising him to contact Jessica Chénier, a HR Assistant, if he wanted to informally discuss the matter. He immediately contacted Ms. Chénier by email to advise her that he had a degree in computer science. She replied the following day and asked him to send proof of his educational credentials.

37 Ms. Chénier testified that she was not a member of the assessment board. In the ordinary course of her duties as a HR Assistant, she often received information from candidates. She stated that she recalled the email exchange with the complainant. When she received copies of his educational credentials she put them with his application documents and sent them to Ms. Bégin Martineau. Ms. Chénier confirmed that this was her normal procedure.

38 Ms. Bégin Martineau testified that she has been a Senior HR Advisor since January 2009 and handled about 50 staffing processes at any given time. She was not part of the assessment board for the CS-02 position and she did not recall receiving copies of the complainant’s educational credentials from Ms. Chénier.

39 In testimony, Ms. Fata identified the emails she exchanged with the complainant on September 20 and 21, 2010. On September 20, 2010, following her return from

an extended period of leave that had commenced in March, 2010, Ms. Fata wrote to the complainant to schedule informal discussion with him. Informal discussion is described in the *PSC Appointment Policy* as an opportunity for persons eliminated during an appointment process to discuss the decision to eliminate them.

40 The record shows that the complainant responded that day to indicate that he could meet the following week and asking her to answer two questions. Ms. Fata responded September 21, 2010, answering his questions and offering to conduct informal discussion by email if the complainant preferred.

41 Informal discussion did not take place. The complainant testified that he did not ask for informal discussion and it was not important to him to meet with Ms. Fata. On October 13, 2010, he wrote to tell Ms. Fata that he would be naming her as a personal respondent in a complaint to the Tribunal as he considered that she had acted in contravention of the CHRA in screening him from the appointment process.

42 A copy of an email dated October 13, 2010, from Ms. Fata to Ms. Daoust, Ms. Bégin Martineau and others, confirms that she met with Ms. Bégin Martineau that day to review the complainant's application document and that she remained of the view that it did not disclose the required education for the position.

43 The complainant testified that he spoke with Ms. Bégin Martineau twice during this period. She initially told him that he was screened out because he had not mentioned his education in the covering letter. He testified that she then left him a voicemail message on November 5, 2010, advising him that she had spoken with the assessment board who had informed her that he was not eliminated because of his covering letter, but because he did not meet the education requirement.

44 Ms. Bégin Martineau testified that she had no memory of a telephone call from the complainant. However, her practice in such cases was to review the application before speaking to the candidate. Assuming she followed this process, she believed that she initially would have told him that he did not meet the education qualification because his education was not mentioned in his covering letter. She did recall reviewing the complainant's application document with Ms. Fata who told her that the complainant

did not meet the education requirement because it was neither in his covering letter nor in his résumé. Ms. Bégin Martineau remembered that after meeting with Ms. Fata, she left a voicemail message in French for the complainant. She reviewed a typewritten transcript prepared by the complainant and purporting to be a record of her message. She testified that she had left many messages during her career and she believed that the transcript reflected what she would have said. The complainant offered access to his voicemail to confirm the content of the transcript. The respondent, however, did not object to the transcript on the basis that Ms. Bégin Martineau accepted its content as accurate.

45 The pertinent portion of the transcript indicates that Ms. Bégin Martineau had spoken to the assessor who told her that the complainant was not eliminated at the level of (*au niveau de*) his covering letter, but because they did not find that he met the minimum education requirement. She invited him to contact Ms. Daoust if he wished to discuss it further.

46 Ms. Bégin Martineau testified that it was not her intention to leave any impression that the content of the covering letter was irrelevant. She stated that she meant to say the complainant was eliminated because of the covering letter and he did not meet the minimum standard for education.

47 To reinforce its explanation that discrimination was not a factor in its decision to eliminate the complainant from the appointment process, the respondent referred to uncontested evidence regarding the composition of the applicant pool in the process. At the conclusion of the process, 29 candidates were determined to be qualified, 16 of whom (55%) self-identified as visible minorities. Three of the qualified candidates (10.3% of the qualified candidates) possessed educational credentials from foreign universities located in Egypt, the West Indies and China. In total, 12 appointments had been made from the pool of qualified candidates. Six (50%) of the appointees self-identified as members of visible minorities, three of whom (25% of the appointees) were born outside Canada: in Somalia, Lebanon and the Philippines. According to data in evidence, the availability of visible minorities within DFAIT around the time that appointments were being made was 10.3%, indicating

that the results of this appointment process exceeded availability. The complainant expressed little faith in these numbers, but other than his own opinion, he led no evidence to challenge them.

48 It is the complainant's position that he met the educational requirements. Further, as Ms. Chénier had asked for his educational credentials when he contacted her after being informed of the result, he had a right to have his education reassessed and the assessment board was obliged to consider his credentials. The department maintains the view that the complainant's application was screened in accordance with the instructions set out in the JOA and the SMC, which were applied uniformly to all candidates. He did not provide information concerning his education in the covering letter and the assessment board's decision to eliminate him was correct.

49 The Tribunal finds that the respondent has provided a complete and reasonable explanation for the circumstances that gave rise to the elimination of the complainant from the appointment process. Section 36 of the PSEA confers exclusive authority for the establishment of assessment methods on the PSC, or in this case, its delegate, the respondent. The method for assessing the education requirement was set out in the instructions: candidates were advised that education and experience would be assessed using their covering letter. Indeed, given that 332 applications were received, this would have been an expedient and efficient method of processing this volume.

50 The complainant acknowledged that he did not comply with the instructions. The Tribunal has held in several decisions that it is a candidate's responsibility to clearly demonstrate in their application that they meet all the essential qualifications. (see for example *Edwards v. Deputy Minister of Indian and Northern Affairs Canada*, 2011 PSST 0010; *Walker-McTaggart v. Chief Executive Officer of Passport Canada*, 2011 PSST 0039). Further, as the Tribunal has earlier held, candidates have a duty to ensure that their application documents are complete and in conformity with the JOA and SMC requirements. (see *Charter v. Deputy Minister of National Defence*, 2007 PSST 0048). There is no obligation on the assessment board to follow-up with candidates or raise inferences when candidates have been clearly told that they must

demonstrate their qualifications in their application. (see *Henry v. Deputy Head of Service Canada*, 2008 PSST 0010).

51 Moreover, the complainant did not acquire a right to be further assessed after submitting his credentials. By the time the complainant submitted proof of his education, the screening decision had been made based on the content of his covering letter and he had been so advised. By supplying information after his elimination from the process, he could not circumvent the screening result or oblige the respondent to conduct a further assessment of his education.

52 The Tribunal finds no pretext in the respondent's explanation. The Tribunal is persuaded based on the evidence of Ms. Fata and Ms. Bégin Martineau, as well as Ms. Daoust's email of March 17, 2010 which reinforced the process to be used for screening, that the respondent's motive for eliminating the complainant from the appointment process was that he failed to mention his education in the covering letter. Deviating from this process by allowing an exception for the complainant would have been unfair to other candidates who were screened out for the same reason and may have given rise to claims of abuse of authority on the basis of unequal treatment.

53 The Tribunal finds, on the basis of the evidence presented, that the respondent has provided a more than reasonable explanation to rebut the *prima facie* case.

Issue II: Did the respondent abuse its authority by failing to apply organizational requirements?

54 The JOA and the SMC used for this process contained the following passage:

Organizational Needs

Improve the representation of members of employment equity groups.

55 In a section entitled "Other Information (Notes)," the passage below, reproduced in its original format, appeared:

Achieving a representative workforce has been identified as an organizational need in the merit criteria, and **may be applied** in this process.

56 The complainant's position is that once a candidate was found to meet the essential qualifications, the respondent was obliged to apply employment equity criteria. In his view, the object of the job posting was to improve the representation of designated groups within the respondent's work force.

57 Mr. Miron testified concerning his obligation as a hiring manager. At the hiring stage, if two candidates were found to have equal strengths for the position to be staffed, only then would employment equity be considered. If one of the candidates had self-identified as a member of a designated employment equity group, then the organizational need would be applied and that candidate would be appointed.

58 Paul Hendriks, Deputy Director of Software Engineering for DFAIT, also testified on this point, stating that he had made three appointments from the qualified pool. He had never had the experience of two candidates who were identically suited as the right fit for an appointment, but if it had occurred, he would have selected the candidate from a designated employment equity group.

59 Ms. Bégin Martineau stated that the organizational need was included on the JOA and SMC with the goal of improving representation. It was available to a manager to address any employment equity gap. She advised managers that they were not required to use it, but it provided them with flexibility in hiring.

60 The Tribunal finds that the respondent did not abuse its authority in the manner in which it applied organizational need. Section 30(2) of the PSEA provides as follows:

30. (2) An appointment is made on the basis of merit when

(a) the Commission is satisfied that the person to be appointed meets the essential qualifications for the work to be performed, as established by the deputy head, including official language proficiency; and

(b) the Commission has regard to

(i) any additional qualifications that the deputy head may consider to be an asset for the work to be performed, or for the organization, currently or in the future,

(ii) any current or future operational requirements of the organization that may be identified by the deputy head, and

(iii) any current or future needs of the organization that may be identified by the deputy head.

61 The Tribunal has previously held that s. 30(2)(b) of the PSEA confers a discretion on a manager to apply additional asset qualifications, operational requirements and organizational needs if he or she sees fit. (see *Glasgow v. Deputy Minister of Public Works and Government Services Canada*, 2008 PSST 0007, at para. 60; *Guimond v. Deputy Minister of National Defence*, 2009 PSST 0023, at para. 34). It is not an obligation.

62 In the present case, a manager would refer to the organizational need only if two candidates were deemed to be equally suited for an appointment. Moreover, the JOA and SMC indicated clearly that the organizational need **may** be applied. The clear meaning is that they would not necessarily be used. The Tribunal finds no error in an approach which confirms the discretion of a manager to resort to organizational need when appropriate.

Issue III: Did the respondent abuse its authority in the application of merit by appointing candidates who did not meet the education requirement?

63 The complainant alleges that two of the candidates who were appointed, Candidates 191 and 279, did not meet the education requirement set out in the SMC. As such, it is his position that their appointments to CS-02 positions constitute an abuse of authority.

64 Mr. Hendriks testified that he conducted screening for the applicants with surnames starting with “M” and he was the hiring manager for Candidate 191. Candidate 191 described his education in his covering letter as a diploma in internet and network security from CDI College and a certificate in visual basic programming from Algonquin College. Mr. Hendriks stated that during screening, the résumé was referred to as a secondary source to support this description. In his view, this was consistent with the instructions which indicated that education and experience must be in the covering letter and the résumé would be used only as a source of validation.

65 A note included in the qualification standard indicates that the recognized educational institution determines whether the courses taken by a candidate correspond

to two years in a post-secondary program at the institution. Mr. Hendriks recalled attending preparatory meetings with other board members when diplomas and degrees were discussed. He recognized CDI College as one of the accredited institutions that was discussed and he was comfortable with the description provided by Candidate 191. Mr. Hendriks stated that he contacted CDI College by telephone and they confirmed that Candidate 191's diploma was the equivalent of a program of two to two and one-half years duration.

66 The complainant considered that Candidate 191 had benefited from an open-minded approach to his application documents. He felt that the assessment board screened Candidate 191 into the assessment process because it assumed he had a two year program. He argued that the qualification standard restricts the authority to make that decision to a recognized educational institution. He felt that the respondent ought to have produced clearer evidence of what Mr. Hendriks said when he called CDI College and that an adverse inference ought to be drawn.

67 Mr. Miron was the hiring manager for Candidate 279, although he was not involved in the task of screening his application. Mr. Miron first saw Candidate 279's application when he was going through the dossier of qualified candidates that he received when he wanted to hire a candidate from the qualified pool. Candidate 279 described his education in his covering letter as a bachelor's degree in business administration with concentration in organizational information systems. A copy of his university degree shows "Baccalauréat en administration des affaires (concentration en systèmes d'information organisationnels)." Mr. Miron researched the program and confirmed that organizational information systems was a major area of study, and the equivalent of a two year program. This satisfied him that Candidate 279 met the education requirement and had been properly screened for the education requirement.

68 The complainant argued that the assessment board had no authority to decide that Candidate 279 met the education requirement. He should have been screened out on the basis that his education was not clearly set out. Moreover, he felt that

the respondent should have produced a transcript of courses to substantiate Mr. Miron's evidence.

69 The Tribunal finds no abuse of authority in the appointments of Candidates 191 and 279. The onus rests with the complainant to prove his case on the balance of probabilities. (see *Tibbs v. Deputy Minister of National Defence*, 2006 PSST 0008). As the Tribunal held in *Broughton v. Deputy Minister of Public Works and Government Services*, 2007 PSST 0020, at para. 50:

It is not sufficient for a complainant to make bold statements in the complaint and allegations claiming abuse of authority without supporting these allegations with evidence from witnesses, facts and/or documents.

70 Aside from the assertions made during his testimony, the complainant did not produce any evidence to support his allegation that Candidates 191 and 279 fail to meet the education requirement. He has not demonstrated that the screening board improperly exercised its authority to assess education. Indeed, the evidence shows that care was taken to avoid making assumptions by checking with the institution directly or by reviewing the program content. Taking these additional steps to verify the education disclosed by these candidates in their covering letters does not establish ambiguity in the manner in which they expressed their education. The complainant has presented no evidence that would call into question the determination made by the assessment board or contradict the evidence of the respondent's witnesses as to those candidates' qualifications. As such, there is no foundation for substantiating this allegation.

Decision

71 The complaints are dismissed.

Joanne B. Archibald
Member

Parties of Record

Tribunal Files	2010-0730, 0733, 0734; 2011-0118, 0119, 0239, 0362, 0363, 0986
Style of Cause	<i>Paul Abi-Mansour and the Deputy Minister of Foreign Affairs and International Trade Canada</i>
Hearing	January 17 and 18, 2012 Ottawa, Ontario
Date of Reasons	March 28, 2012
APPEARANCES:	
For the complainant	Paul Abi-Mansour (Self-represented)
For the respondent	Neida Gonzales
For the Public Service Commission	John Unrau (written submissions)