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*Federal Public Sector  
Labour Relations and  
Employment Board Act and  
Public Service Employment Act*



Before a panel of the  
Federal Public Sector  
Labour Relations and  
Employment Board

BETWEEN

**MARIE-PIERRE D'ALMEIDA**

Complainant

and

**COMMISSIONER OF THE ROYAL CANADIAN MOUNTED POLICE**

Respondent

and

**OTHER PARTIES**

Indexed as

*D'Almeida v. Royal Canadian Mounted Police*

In the matter of a complaint of abuse of authority under ss. 77(1)(a) and (b) of the  
*Public Service Employment Act*

**Before:** Linda Gobeil, a panel of the Federal Public Sector Labour Relations and  
Employment Board

**For the Complainant:** Chantal Ouellet

**For the Respondent:** Julie Chung, counsel

**For the Public Service Commission:** Louise Bard

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Heard at Montreal, Quebec,  
April 10 and 11, 2019.  
(FPSLREB Translation)

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REASONS FOR DECISIONFPSLREB TRANSLATION

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**I. Introduction**

[1] Marie-Pierre D’Almeida (“the complainant”) alleged abuse of authority in the application of the merit criteria and in the choice of a non-advertised process in the appointment of a former colleague on an acting basis. As the colleague did not take part in this matter, I will refer to her as “the appointee” in this decision.

[2] In this case, in April 2016, the Commissioner of the Royal Canadian Mounted Police (“the respondent”) decided to replace the assistant in the commanding officer’s office. She held a position classified at the AS-03 group and level (“the AS-03 position”) and was to go on maternity leave. The non-advertised appointment on an acting basis was initially for a duration of less than four months in April 2016. The respondent appointed the appointee to that position. It then appointed the appointee anew, from August 11, 2016, to May 31, 2017, through a non-advertised process.

[3] On August 24, 2016, the complainant filed a complaint under ss. 77(1)(a) and (b) of the *Public Service Employment Act* (“the Act”) challenging the non-advertised staffing process numbered 16-RCM-ACIN-W-C-MTL-CO-60968, the one for the appointment on an acting basis from August 11, 2016, to May 31, 2017.

[4] The complainant alleged that the respondent abused its authority in the application of the merit criteria and in the choice of process for the appointment on an acting basis. According to her, the appointee was not qualified to hold the position; the respondent had to choose someone from the pool of pre-qualified candidates, and the appointee was not in that pool. Finally, according to the complainant, the employer should not have used a non-advertised process. In sum, she alleged that the respondent showed bad faith in this matter.

[5] For the reasons that follow, the complaint is dismissed. The complainant did not demonstrate that the respondent abused its authority in the appointment process; namely, the non-advertised appointment on an acting basis from August 11, 2016, to May 31, 2017.

## **II. Context**

### **A. The complainant's evidence**

[6] The hearing of this case took two days. After the complainant testified, the respondent called one witness, the commanding officer, François Deschênes.

[7] Note that on October 6, 2016, the complainant filed an application for a production order with the Board. She asked that the respondent provide her with the appointee's CV, proof of validation of that person's second-language tests, and the exact dates on which the appointee was appointed on an acting basis. On November 10, 2016, the Board ordered the respondent to produce the narrative evaluation of the appointee rather than a CV, the proof of validation of the person's second-language tests, and finally, the dates on which the appointee was appointed on an acting basis to the AS-03 position. The respondent provided the requested information.

[8] In her testimony, the complainant indicated that as of the complaint's filing on August 24, 2016, she was in the RCMP's employ and held a position classified at the CR-05 group and level. She stated that initially, she had been very proud at being hired. Unfortunately, her opinion of her employer changed. The experience she went through that led her to file this complaint also led her to quit her job in December 2016.

[9] The complainant stated that in September 2014, an appointment process was posted for an AS-03 assistant position in the commanding officer's office (Exhibit BA-13).

[10] She testified that she was invited to a qualification exam for that position. She indicated that she passed that process and therefore was put in a pool of pre-qualified candidates for the AS-03 position that was valid until December 31, 2016. Another person who had passed the exam, Stéphanie Lafond, was appointed to the AS-03 position for an indeterminate period as the assistant in the commanding officer's office.

[11] The complainant indicated that a third person, the appointee, did not qualify in the exam and therefore was not part of the pool of pre-qualified candidates.

[12] The complainant said that after the exam, she met with Josée Bazinet, Director, Legal Services, at the commanding officer's office for an informal discussion. Ms. Bazinet advised her at the time that although Ms. Lafond had been chosen for the

position, the commanding officer's office wished to use the complainant's services to replace Ms. Lafond during her absences (Exhibits BA-1, BA-2, and BA-3).

[13] The complainant indicated that in 2015, she replaced Ms. Lafond three times in Commanding Officer Deschênes' office as an AS-03, for two or three days in May 2015, two weeks in July 2015, and one week in September 2015. According to the complainant, Commanding Officer Deschênes and his team's members were always satisfied with her performance (Exhibit BA-5).

[14] She reported that in October 2015, Ms. Lafond asked her if she were interested in replacing her while she went on maternity leave for one year. The complainant expressed her interest. Her then-supervisor, Roger Gallant, agreed and encouraged her to work in the commanding officer's office.

[15] By February 2016, the complainant had received no news about the possible appointment to replace Ms. Lafond, so she asked Mr. Gallant about it. He reportedly informed her that the appointment on an acting basis to replace Ms. Lafond during her leave had instead been offered to the appointee.

[16] The evidence showed that initially, the appointee replaced Ms. Lafond on an acting basis for a first period of less than four months in April 2016. The complainant stated that she was devastated by the news, particularly because, in her opinion, the appointee was not qualified and had not been placed in the 2014 candidate pool. According to the complainant, Mr. Gallant reportedly told her that the appointee had obtained the AS-03 position on an acting basis because she had replaced Ms. Lafond before as an AS-03 in the commanding officer's office.

[17] The complainant testified that the appointee was then appointed again on August 9, 2016, through another non-advertised appointment process, from August 11, 2016, to May 31, 2017 (Exhibit BA-12).

[18] On August 24, 2016, after the appointee's appointment on an acting basis had been extended, the complainant filed her abuse-of-authority complaint.

[19] In her testimony, she maintained essentially that the appointee's second appointment was an abuse of authority because, on one hand, it is hard to maintain that that person had the required experience because the respondent did not use a CV when evaluating the appointee. And even more importantly, according to the

complainant, the appointee did not qualify in 2014 and therefore did not have the competencies required to occupy the position.

[20] In effect, the complainant submitted that the essential qualifications required in the 2014 staffing process were the same as those for the non-advertised process in August 2016. Thus, she questioned how the respondent could claim that the appointee was qualified for the August 2016 non-advertised process given that she had not been in 2014.

[21] In the circumstances, the complainant maintained that the appointee should not have been selected. She also pointed out that the periods in which the appointee had been a replacement in the commanding officer's office were relatively short and took place three years before the August 2016 notice of the appointment on an acting basis.

[22] She also emphasized that Ms. Lafond and Ms. Bazinet had promised her that she would be selected to replace Ms. Lafond in the future.

[23] The complainant also maintained that she had tried to resolve this complaint with the respondent through mediation but that her offer was received with sarcasm (Exhibits BA-17, BA-18, and BA-19).

[24] The complainant also affirmed that several times, she tried to obtain information on the appointee's qualifications, particularly by trying to receive a copy of her CV and her language-test results but that Commanding Officer Deschênes refused each time. He submitted that that type of information was considered personal; therefore, he was not authorized to disclose it. However, he was prepared to specify the periods during which the appointee had been a replacement assistant in his office (Exhibits BA-6, BA-7, and E-3, Tab 4). However, as noted, after the Board's November 10, 2016, decision, the respondent provided the complainant with the existing required information.

[25] The complainant testified that she never received any negative comments from Commanding Officer Deschênes on her performance. She also received no explanations as to why she had not been appointed to the AS-03 position on an acting basis (Exhibit BA-11). And he did not respond to her requests for a letter of recommendation from him. He preferred to delegate everything to Karine Cousineau in Human Resources (Exhibits BA-8, BA-9, and BA-10). The complainant indicated that she refused to meet

with Ms. Cousineau and that she preferred written explanations from the employer (Exhibit E-1). According to her, the only explanation the employer provided was that the appointee could take on the work immediately.

[26] The complainant affirmed that she felt intimidated after filing her complaint. She also testified that these events had a negative impact on her health and hindered her advancement. According to her, in 2015, the respondent should have given her a chance to perfect her training; it did not happen. She wanted to “[translation] learn at a reasonable pace” (Exhibit BA-3).

[27] As corrective measures, the complainant requested that I award her the salary difference between a position classified CR-05 and one classified AS-03, which is approximately \$15 000 per year since she filed her complaint, according to her. She also asked for a letter of recommendation from Commanding Officer Deschênes and to be reinstated into a pool of pre-qualified candidates for AS-03 positions.

[28] In cross-examination, the complainant acknowledged that she has never worked with or supervised the appointee’s work and therefore is not familiar with the quality of her work. The complainant also agreed that she completed three periods as a replacement AS-03 and that no one had promised her that she would replace Ms. Lafond for an indeterminate period or specifically during her year of leave (Exhibit BA-4). She also admitted that she had not wanted to follow up on Ms. Cousineau’s requests (Exhibits E-1 and E-2). In terms of damages, the complainant acknowledged that it was speculative to conclude that she would have been appointed to the AS-03 position.

## **B. The respondent’s evidence**

[29] Mr. Deschênes was the only witness for the respondent. He has been the RCMP’s assistant commissioner and divisional commander in Quebec since 2011. He testified that in 2015, he took the mandatory training in federal public service staffing.

[30] Mr. Deschênes described as quite varied and complex the duties of the AS-03 position of assistant to the commanding officer. According to him, his assistant has many things to manage, including unforeseen situations, and therefore must be very independent, as he is not always on site.

[31] He testified that in April 2016, his assistant, Ms. Lafond, was to go on maternity leave. He chose to replace her with the appointee for a period of less than four months. He chose the appointee's services because she was available immediately and did not require training. As she had already replaced his assistant in the past for a total of about 35 weeks, he knew that she was able to meet the challenge and that she was very independent in her work (Exhibit E-3, Tab 4).

[32] He testified that in August 2016, at the end of the acting period of less than four months, he decided to appoint the appointee for a new period from August 11, 2016, to May 31, 2017 (Exhibit E-3, Tab 1), through a non-advertised process.

[33] He explained that he decided to appoint the appointee on an acting basis a second time because of continuity and because he knew very well that she could do the work. He explained that given her assignments to his office since 2011, she knew the organization very well and did not require training, which was a major asset, because he did not have time to train someone. He pointed out that in addition to April to August 2016, the appointee had worked in his office as an AS-02 assistant on an acting basis for 35 weeks in 2013 and that that position was later reclassified AS-03. According to him, despite the reclassification, the position's duties remained substantially the same. In his view, therefore, the appointee had clearly demonstrated the experience and knowledge needed to perform the AS-03 duties in his office (Exhibit E-3, Tab 4).

[34] Mr. Deschênes testified that as he understood it, he did not have to choose someone from the pool of pre-qualified candidates. Since his needs were immediate and he did not have time to train a new assistant, he decided to continue with the appointee, who met the merit criteria for the position and had the necessary language profile and experience to perform the duties (Exhibit E-3, Tab 2).

[35] According to Mr. Deschênes, given that the position required significant independence and that the duties were not routine, he needed someone like the appointee, who could do the job right away, with minimal supervision.

[36] When he was asked to explain his choice of a non-advertised process, Mr. Deschênes reiterated that he needed continuity in the position, that the appointee had proved herself in the past, that she had been successful in her long replacements

in the past, and that he wanted to benefit from her organizational knowledge (Exhibit E-3, Tab 1).

[37] Mr. Deschênes also testified that in his other positions, he had worked with the appointee, but that she did not report to him then. He indicated that she was known as reliable and discreet. He stated that he had a strictly professional relationship with her and that he had never spent time with her socially.

[38] With respect to the decision not to provide the complainant a letter of recommendation, Mr. Deschênes explained that he had referred the entire matter to Ms. Bazinet, who in turn spoke to Ms. Cousineau of Human Resources. He specified that it would have been hard to prepare such a letter for her, given that he was often absent when she replaced someone in his office. He indicated that he relied on Ms. Cousineau's advice. Apparently, she indicated that providing a letter of recommendation was not common practice in the public service. However, he wanted to emphasize that the complainant's work in his office was not in question.

[39] As for the complainant's claim that he did not want to respond to her request for information (Exhibits BA-6 and BA-15), Mr. Deschênes explained that he did not understand then why he was not consulted directly on the matter. When he was asked specifically about the use of the word "[translation] saga" in Exhibit BA-15, he explained that then, he referred to the request for a CV, which he did not have, and not to the complainant's complaint, which he maintained he had dealt with seriously.

[40] Finally, Mr. Deschênes explained that in good faith, he had not believed that mediation would have been particularly useful in this case.

[41] In cross-examination, Mr. Deschênes confirmed that in 2016, he was aware that the appointee had not qualified for the 2014 appointment process. He explained that in August 2016, when Ms. Bazinet presented him with the merit criteria to consider, he had been satisfied with it and had not compared them to the requirements in the 2014 process. He maintained that the 2016 process was *de novo* and that he did not have to consider the results of a process from two years before.

[42] When he was then asked to evaluate the appointee on the basis of the statement of merit criteria prepared for the position on an acting basis from August 2016 to May



2017, Mr. Deschênes stated that he had been satisfied that she met the criteria and the requirements of the position to be filled (Exhibit E-3, Tab 2).

[43] Mr. Deschênes concluded his testimony by emphasizing that although the complainant had replaced his assistant in the past, he felt that she had not worked long enough for him to issue a letter of recommendation. He also stressed that he needed someone quickly and that to maintain operations in his office, the selected person had to be experienced, familiar with the organization's operations, and very independent.

### **C. The complainant's arguments**

[44] The complainant's representative pointed out that in April 2016, as of the first appointment on an acting basis of less than four months, the respondent already knew that the incumbent was to go on maternity leave for a year. Why, then, did it choose to conduct two processes, one for less than four months, and the other for August 2016 to May 2017? According to the complainant's representative, it was a flagrant lack of transparency. The representative referred me to *Robert and Sabourin v. Deputy Minister of Citizenship and Immigration*, 2008 PSST 24. She stressed that the complainant should have been given an opportunity to perfect her experience by allowing her to replace Ms. Lafond once the respondent knew that she was to go on maternity leave.

[45] Throughout her arguments, the grievor's representative greatly emphasized the fact that in the appointment process for the commanding officer's assistant position in 2014, the appointee had failed to qualify, while the complainant had succeeded. According to her representative, the respondent's decision to not select the complainant was flagrant evidence of its bad faith by choosing to appoint an unqualified person, to the complainant's detriment. Her representative also maintained that representations had been made to her that had led her to understand that she would be selected to replace Ms. Lafond during her maternity leave. The fact that the respondent changed its mind clearly showed its bad faith. The complainant's representative also maintained that throughout the proceedings involving the complaint, the respondent had shown bad faith by refusing to share requested documentation and moreover arrogance by refusing to participate in mediation.

**D. The respondent's arguments**

[46] For her part, the respondent's representative pointed out that in April 2016, the respondent chose an appointment of less than four months to fill the position of the administrative assistant who was to go on maternity leave. That decision was motivated by the fact that the appointee knew the organization and in the past had the opportunity to be a replacement in the position for extended periods (Exhibit E-3, Tab 4). Then, based on the appointee's experience, knowledge of the organization, qualifications, and the fact that she met the merit criteria for the position, as permitted under s. 33 of the *PSEA*, the respondent chose to proceed with a non-advertised appointment (Exhibit E-3, Tabs 2, 3, and 4).

[47] And according to counsel, nothing in the *Act* requires the employer to select a person from a pool of pre-qualified candidates (see *Raabe v. Deputy Minister of Indian and Northern Affairs*, 2018 FPSLREB 32).

[48] Counsel emphasized that although throughout the hearing, the complainant maintained that the appointee did not have the required competencies, no evidence was provided to support that assertion. Counsel also pointed out that even though the respondent's representatives had highlighted the complainant's good work, at no time did they promise her that she would replace Ms. Lafond for the duration of her maternity leave.

[49] Counsel insisted that although the appointee had not qualified in the 2014 process, no evidence was submitted as to the reasons for it; regardless, the important point is that the appointee met the merit criteria for the position to which she was appointed on an acting basis in August 2016.

[50] Counsel concluded that the complainant did not discharge her burden of proof and had not demonstrated an abuse of authority in the choice of process or that the appointee did not meet the merit criteria for the position. She referred me in particular to *Lavigne v. Canada (Justice)*, 2009 FC 684, and *Tibbs v. Deputy Minister of National Defence*, 2006 PSST 8.

**III. Analysis**

[51] Before examining the issues specific to this dispute, note that the complaint was filed under ss. 77(1)(a) and (b) of the *Act*. Those provisions essentially provide that a

person who has not been appointed in a non-advertised internal staffing process may file a complaint that he or she was not appointed by reason of an abuse of authority in the application of merit or in the choice of process. Section 30(1) states that appointments must be made on the basis of merit. Section 30(2)(a) states that an appointment is based on merit when it satisfies the following:

**30 (2) ...**

*(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.*

[52] As determined in *Tibbs*, the complainant had the onus to, on a balance of probabilities, demonstrate that the respondent abused its authority, to justify the Board's intervention and, as applicable, the awarding of corrective measures.

#### **IV. The issues**

- A. Was there abuse of authority in the choice of a non-advertised process?
- B. Was there abuse of authority in the selection of a person who had not qualified in a similar appointment process two years earlier?
- C. Did the respondent show bad faith with respect to the document disclosure request and by refusing to participate in mediation?

##### **A. Was there abuse of authority in the choice of a non-advertised process?**

[53] From the start, I must emphasize that based on the complaint, this decision is about the second appointment process, from August 11, 2016, to May 31, 2017.

[54] In her arguments, the complainant claimed that the respondent had not been entitled to use a non-advertised appointment process and that by doing so, it abused its authority. In that sense, note that s. 33 of the *Act* is clear as follows on the choices available to managers:

*33 In making an appointment, the Commission may use an advertised or non-advertised appointment process.*

[55] The choice of an advertised or non-advertised appointment process rests with managers. However, this decision must be justified and free of favouritism or bias. Although the definition of abuse of authority in s. 2(4) of the *Act* is not exhaustive (see *Canada (Attorney General) v. Lahlali*, 2012 FC 601), and therefore is not limited to bad faith or personal favouritism, the fact remains that the complainant had to demonstrate a serious error by the respondent and could not simply allege that the appointee did not have the required competencies.

[56] In this case, the respondent justified its decision by explaining that it was best in the context of the matter to find a person who had the required competencies and who had substantially and satisfactorily performed the duties. According to the witness, there would have been no benefit in trying to train someone for the replacement period.

[57] Therefore, the onus is on the party that alleged bad faith to demonstrate that the choice of appointment process was based on reasons other than finding a person who met the essential criteria for the position to be filled. In this case, although the complainant disagreed with the result of the respondent's choice, no evidence was submitted to show that the appointee did not have the desired competencies, that the respondent showed her preferential treatment, or that the choice of a non-advertised appointment process was tainted by any defect.

[58] In his testimony, Mr. Deschênes indicated that in April and August 2016, he needed someone to immediately replace his AS-03 assistant. He pointed out that given the assistant's duties, he had to find an independent replacement, whom he could rely on immediately. The evidence showed that the appointee had successfully completed several long replacements in the past, totalling 35 weeks, and that according to the uncontradicted evidence, she met the statement of merit criteria (Exhibit E-1, Tab 2). In the complainant's case, I note that she performed only 3 short-term replacements, totalling 2 weeks at most. In the circumstances, I find that apart from her allegation, there is no evidence that the appointee did not meet the position's merit criteria.

[59] The complainant's representative pointed out that by choosing to conduct two processes, one for less than four months in April 2016, and the other from August 2016 to May 2017, the respondent deliberately sought to avoid its obligations under the *Act*. In support of her claims, the representative referred me to *Robert and*

*Sabourin*. In my view, this case differs from the facts in that decision. In fact, in *Robert and Sabourin*, the Board found that several serious omissions occurred in the appointee's selection. Among other things, the respondent used three non-advertised processes, and there was no written rationale for selecting the appointee, which was not so in this case (Exhibit E-3, Tabs 1 and 2). Furthermore, in *Robert and Sabourin*, there was no up-to-date statement of merit criteria or evidence that the appointee had been evaluated based on those criteria. In the circumstances, the Board found that there was no evidence that the appointee met the position's essential qualifications. However, in this case, the evidence shows that not only was the appointee evaluated based on the merit criteria but also, no evidence was submitted to show that the appointee did not have the essential qualifications for the AS-03 position. The complainant also acknowledged that she was not familiar with the quality of the appointee's work.

[60] According to the Board, the appointee in *Robert and Sabourin* also did not meet the language proficiency qualification. Again, in this case, the evidence showed that the appointee met the language requirements for the AS-03 position (Exhibit E-3, Tab 2).

[61] Therefore, in this case, I find that the complainant did not establish abuse of authority in the choice of process.

**B. Was there abuse of authority in the selection of a person who had not qualified in a similar appointment process two years earlier?**

[62] At the hearing, it became clear that the main reason for the complaint was that in August 2014, two years before the announcement of the choice of the appointee, the complainant had qualified and had been placed into a pool of pre-qualified candidates for the AS-03 position, while the appointee had not been placed in it. The complainant compared the statements of essential qualifications of the two processes, namely, the one in 2014 and the one in 2016 (Exhibits BA-12 and BA-13). She concluded that because the two statements were similar, the respondent had no choice but to select her as she was the only one in the pool of pre-qualified candidates.

[63] When the respondent was asked to explain why it chose to appoint the appointee in the non-advertised process in 2016 when, unlike the complainant, she did not qualify in the 2014 process, it explained that it had not considered the 2014 process. In its view, the search for a candidate to replace Ms. Lafond in 2016 was a *de*

*novo* process. It maintained that the appointee met the merit criteria developed for the 2016 process and in addition that she had more replacement experience than had the complainant.

[64] In effect, a quick review of Exhibits BA-12 and BA-13 supports the conclusion that the essential qualifications for the position were similar. However, I accept the respondent's explanation that in its view, it was a new process, and that it wanted to appoint someone quickly who had the competencies and experience needed for continuity. As noted, according to the uncontradicted evidence in this case, the appointee met the position's merit criteria.

[65] While the argument that the two processes essentially reiterated the same qualifications may seem interesting, it must be remembered that it was an appointment to an AS-03 position in a senior manager's office and that as such, the required criteria seem quite common to me. Therefore, it is not surprising for different processes to have the same criteria. It remains that among other things, the appointee had to meet the merit criteria in a fair and transparent process, without no favouritism of any kind.

[66] I do not agree with the complainant's argument that because she qualified in a pool two years earlier in a similar process and the pool had not expired, the respondent had no choice but to appoint her. While pools of pre-qualified candidates are available to managers to support staffing a position at the same level, it remains that they are not obliged to recruit from such pools, as noted as follows in *Raabe*, at para. 43:

*[43] In any event, and for informational purposes only, I must point out that there is no requirement in the Act for hiring managers to select individuals for vacant positions who have already qualified in a pool from a previous appointment processes.*

[67] In addition, although the appointee did not qualify in the 2014 staffing process, no evidence was adduced to show why she did not qualify, and in particular, there was no evidence that the appointee did not meet the merit criteria for the 2016 staffing process, which is the subject of this complaint. Two years passed between the two staffing processes. In two years, a person's qualifications can develop.

[68] The complainant also mentioned that the appointee did not have the required competencies for the position. No evidence of it was adduced. The complainant also

acknowledged that she was not familiar with the quality of the appointee's work. Based on the respondent's uncontradicted testimony, the appointee had the required qualifications and the experience needed to fill the position.

[69] The outcome of this case would have been different for example had the evidence revealed that the appointee had been shown favouritism. However, it is not so; it was not even alleged. The appointee met the merit criteria for the AS-03 position, in accordance with s. 30(2)(a) of the *Act*.

[70] Therefore, I find no abuse of authority in the choice of someone who had not qualified in a similar process two years earlier.

**C. Did the respondent show bad faith with respect to the document disclosure request and by refusing to participate in mediation?**

[71] The complainant pointed out that the respondent hesitated to provide her with information about the appointee's CV and second-language test validations as well as the dates on which she was appointed on an acting basis to the commanding officer's office. As noted, after she filed a disclosure application on November 10, 2016, the Board found that the respondent had agreed to provide information on the second-language validation and the dates on which the appointee was a replacement at that office. As the respondent affirmed that it did not use the appointee's CV but instead a narrative evaluation, the Board ordered it to provide that evaluation to her.

[72] The evidence showed that effectively, the information was shared with the complainant in the required time in November 2016 (Exhibit E-3, Tabs 2 and 3). In addition, with respect to the information and as I have noted, nothing demonstrated that the appointee did not meet the merit criteria or that she did not have the required language profile. The fact that the complainant had to make a formal request to the Board for the information disclosure cannot in itself lead me to conclude that the respondent acted in bad faith and therefore that it abused its authority.

[73] It must be added that although mediation is not a mandatory step in an abuse-of-authority complaint process, it remains that it is in everyone's interest to maintain a fair and transparent staffing system. Thus, providing all relevant information requested by a complainant from the start, without waiting for a Board order, and choosing in good faith to submit to a mediation process simply strengthen all parties' trust in our staffing system.

[74] For all the above reasons, the Board makes the following order:

*(The Order appears on the next page)*



**V. Order**

[75] The complaint is dismissed.

February 26, 2020.

FPSLREB Translation

**Linda Gobeil,  
a panel of the Federal Public Sector  
Labour Relations and Employment Board**