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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

MARIO GHAFARI

Complainant

and

**DEPUTY HEAD
(Statistics Canada)**

Respondent

and

OTHER PARTIES

Indexed as
Ghafari v. Deputy Head (Statistics Canada)

In the matter of a complaint of abuse of authority under section 77(1)(a) of the *Public Service Employment Act* and a request for an order to provide information pursuant to s. 17 of the *Public Service Staffing Complaints Regulations*

Before: Edith Bramwell, a panel of the Federal Public Sector Labour Relations and Employment Board

For the Complainant: Himself

For the Respondent: Caroline Rousseau

Decided on the basis of written submissions,
filed September 9, 16 and 17, 2024, February 28 and March 10, 2025.

I. Request for an order to provide information

[1] The complainant, Mario Ghafari, made a complaint alleging that the deputy head of Statistics Canada (“the respondent”) abused its authority in the application of merit when it eliminated him from an advertised appointment process after he failed to meet three competencies: *C1 – Demonstrating integrity and respect; C2 – Thinking things through; and C3 – Working effectively with others.*

[2] This decision deals with the complainant’s third request for an order to provide information (“an OPI”).

[3] The *Public Service Staffing Complaints Regulations* (SOR/2006-6; “the *Regulations*”) requires the parties to exchange all relevant information with respect to the complaint. If a party refuses to provide information, the complainant or respondent may request that the Federal Public Sector Labour Relations and Employment Board (“the Board”) order that the information be provided.

[4] For the reasons that follow, I have granted the complainant’s request for an OPI.

II. Background

[5] In response to the complainant’s first request for an OPI, the Board ordered the respondent to provide various items including information about the complainant and appointee’s references and the assessment for competencies C1, C2 and C3. The Board denied his second request for an OPI, finding that the same information he was requesting about other appointments made in the same process was not arguably relevant to his complaint which challenged one appointment only.

[6] The complainant submitted a third request for an OPI in which he sought the same information as in his first two requests and asked for information related to the assessment of candidates who were not successful in the appointment process. In this request, he raised an allegation of discrimination on the ground of disability or race.

[7] In *Ghafari v. Deputy Head (Statistics Canada)*, 2025 FPSLREB 18 (“*Ghafari 1*”), an earlier decision related to this third request, the Board provided the parties with the opportunity to make further submissions with respect to the arguable relevance of the requested information, particularly in light of the allegation of discrimination.

III. The complainant's third request for an OPI

[8] The complainant seeks three items in his request for an OPI. He requests the answers and assessments for all competencies (C1 to C6) for all successful and unsuccessful candidates at the reference stage of the appointment process. He requests a list of the types of training received by those involved in the appointment process and in evaluating his application. He also requests any communication regarding his application "between committee members, references, evaluators, directors, staffing and himself".

[9] The complainant states that candidates were asked to provide only two references in their application whereas, in his case, feedback was apparently sought from five references. He submits that he failed to meet three of the competencies being assessed through these references because of negative feedback that was given including from individuals whose assessments would have been biased and influenced by his disability. The complainant argues that he needs the requested information to prove differential treatment and discrimination on the ground of disability or race.

IV. Analysis

[10] Section 17(4) of the *Regulations* states that the Board must order the provision of information that it determines may be relevant to a complaint. The onus is on the requesting party to specify the information sought and to establish its arguable relevance or link to the complaint (see *Akhtar v. Deputy Minister of Transport, Infrastructure, and Communities*, 2007 PSST 26 at paras. 27 and 28; and *Shafaie v. Deputy Head (Department of Health)*, 2022 FPSLREB 15 at para. 27).

[11] As stated in *Ghafari 1*, "statistical or comparative evidence including evidence from other selection processes may be arguably relevant where a complainant raises human rights issues or other allegations of systemic or recurring abuse of authority" (see *Canada (Human Rights Commission) v. Canada (Department of National Health and Welfare)*, 1998 CanLII 7740; and *Agnaou v. Canada (Attorney General)*, 2014 FC 850).

[12] The respondent's main contention is that the complaint is limited to one appointment whereas the information the complainant seeks relates to other appointments, albeit made through the same appointment process. It argues that as those other appointments were not challenged, the Board does not have jurisdiction over them and cannot make findings as to whether they were based on merit.

[13] The respondent offers to provide an anonymized sample of assessment results for nine successful candidates for competencies C1 to C3 only. This sample would represent one third of successful candidates. It also offers to provide anonymized assessment results for all unsuccessful candidates. In respect of the request for competencies C4 to C6, it submits that only information on failed competencies should be provided because this focuses on the complainant's areas for improvement.

[14] The complainant clarifies that he is not seeking final assessment results for those appointed but rather information about the assessment of all candidates who were assessed at the reference stage only. He submits that one third of successful candidates' results is not enough to detect the issues related to his allegations, to compare results, and to prove discrimination. The complainant disagrees that the context is to address areas where he needs improvement; he argues that the context of his complaint is to determine if abuse of authority occurred. I agree.

[15] The requested information related to the assessment of all candidates for all competencies assessed at the reference stage of the appointment process and any communication regarding the complainant's application at that stage is arguably relevant to the complainant's allegations of discrimination and abuse of authority. While the complainant cannot seek recourse with respect to other appointments made through this appointment process, he can request information related to other candidates and appointees for the purpose of proving differential treatment or discrimination in the appointment process that is the subject of his complaint.

[16] My decision on each of the three items requested by the complainant is as follows.

A. Answers and assessments for competencies C1 to C6 for all candidates

[17] The answers and assessments for all competencies for all candidates assessed at the reference stage are arguably relevant to the issue of discrimination and must be provided.

[18] On the related issue raised by the complainant about the number of references that were checked for his application, the respondent proposes to provide the complainant with the number of references contacted for candidates assessed at that stage of the appointment process. Although this information may be evident from the full answers and assessments for all competencies for all candidates, as the

respondent has offered and because it is also arguably relevant to the complainant's allegations of differential treatment and discrimination, I will order it to be provided.

B. List of types of training received by those involved in the appointment process and in evaluating the complainant's application

[19] The complainant's request for the types of training received by "those involved in the appointment process" is quite broad. The respondent offers to provide information about the type of HR training received by the selection committee members and the sub-delegated manager. I find that the complainant's broader request is not arguably relevant whereas the information for those who evaluated the complainant's application is arguably relevant to his complaint. I will so order it.

C. Communication regarding his application including between hiring panel members, references, evaluators, managers, staffing and himself

[20] The respondent offers to provide emails related to the evaluation of the complainant's references exchanged during the appointment process. I find that any communication concerning the complainant's references between those involved in the appointment process is arguably relevant to the complaint. Therefore, I will order it to be provided.

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

(The Order appears on the next page)

V. Order

[22] The request for an OPI is granted.

[23] The Board orders the respondent to provide the following to the complainant by **May 14, 2025**:

- a) Answers and assessments for competencies C1 to C6, and the number of references contacted, for all candidates assessed at the reference stage of the appointment process.
- b) A list of the type of HR training received by the selection committee members and the sub-delegated manager.
- c) Any communication regarding the complainant's application including between hiring panel members, references, evaluators, managers, staffing and himself.

[24] The Board directs the respondent to redact from the documents any personal information such as PRI (personal record identifier) numbers, home addresses or telephone numbers.

[25] Pursuant to s. 18 of the *Regulations*, the parties are reminded that the above information may only be used for the purposes of this complaint.

[26] The Board had suspended the complaint process timelines until it rendered this decision. As this decision is now issued, the timelines can be reactivated. The complainant shall submit his allegations by **May 28, 2025**.

[27] All parties should consult the *Regulations* and *Procedural Guide for Staffing Complaints* to calculate the amended deadlines resulting from the reinstatement of timelines and to ensure that they make the necessary adjustments to the timelines applicable to them.

May 1, 2025.

Edith Bramwell,
a panel of the Federal Public Sector
Labour Relations and Employment Board