

Federal Court



Cour fédérale

**Date: 20150415**

**Docket: T-1723-13**

**Citation: 2015 FC 469**

**[UNREVISED ENGLISH CERTIFIED TRANSLATION]**

**Montréal, Quebec, April 15, 2015**

**PRESENT: The Honourable Mr. Justice Locke**

**BETWEEN:**

**GANZA BUNZIGIYE**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

I. Nature of the matter

[1] This is an application for judicial review from a decision of the Canadian Human Rights Commission (the CHRC) dismissing the applicant's complaint under subparagraph 44(3)(b)(i) of the *Canadian Human Rights Act*, the CHRC being satisfied that, having regard to all the circumstances of the complaint, inquiry into the complaint was not warranted.

[2] The applicant alleges that, because of his race and ethnic origin (Congolese-Rwandan), Statistics Canada denied him an ES-02 position in September 2009 and did not renew his contract, thus discriminating against him. The applicant further alleges that he was treated differently from other employees and that he was harassed at his workplace.

## II. Facts

[1] In April 2008, the applicant obtained a contract for a CR-03 position at Statistics Canada. In September 2008, the applicant qualified for inclusion on a CR-03/CR-04 list.

[2] In late 2009, the applicant was assigned to Statistics Canada's Health Statistics Division. He remained there until April 2010, eventually returning to his home division, the Operations and Integration Division.

[3] The applicant submits that he was harassed and discriminated against in his workplace. On October 21, 2011, the applicant filed a complaint before the CHRC because of the alleged discrimination he suffered in his workplace. Among other things, he made the following allegations:

1. He was adversely differentiated against because of his education. The applicant was taking a university master's program and submits that his colleagues and superiors felt the need to show that they were more intelligent than him.
2. People in the workplace made negative comments about him because of his smell, his clothing and his food.

3. His colleagues insinuated that he was responsible for the disappearance of office supplies. The applicant submits, for example, that one of his colleagues dressed up as a criminal for Halloween and had explained to the applicant that he was dressed up as a “smooth criminal”. The applicant also alleges that his colleagues would drop money when the applicant came up to them.
4. His supervisor treated him like a slave, telling him, for example, to [TRANSLATION] “do this for me” or to [TRANSLATION] “sit down”.
5. Statistics Canada discriminated against him by performing a biased assessment of his work.
6. Statistics Canada did not renew his contract after October 27, 2010, because of the discrimination complaint he had filed and his refusal to sign his assessment.
7. His supervisors ignored his questions and ideas.
8. His privacy was violated because he had to have his fingerprints taken before starting his job with Statistics Canada.

### III. Issue

[4] There is one issue:

1. Is the CHRC’s decision reasonable?

IV. Decision

[5] The CHRC's decision dated September 23, 2013, is supported by the investigation report according to which the applicant's complaint is unwarranted having regard to all the circumstances. In addition to relying on the investigation report, the CHRC based its decision on all the representations of the parties.

[6] In his report, the investigator considered the applicant's allegations regarding the adverse differentiation to which he had been subjected in his employment, but concluded that the applicant did not submit any evidence in support of these allegations. The report indicates that four of the applicant's colleagues maintain that the applicant was not adversely differentiated against, but some of these colleagues also claim that the applicant was less productive than his colleagues and that he was sometimes hard to understand whether he was speaking in French or in English.

[7] In his report, the investigator also reviewed the allegations that the applicant was denied an ES-02-level position. The investigator found that the applicant had simply not obtained the passing grade to qualify for the competition for the position he wished to apply for (the passing grade was 98 out of 140, and the applicant obtained 83.5 out of 140).

[8] Moreover, the investigator analyzed the allegations that the applicant's contract was not renewed on discriminatory grounds. The investigator found that Statistics Canada stated before her that the quality of the applicant's work was poor, that his output was below average and that

out of the 89 term employees at Statistics Canada, 17 did not have their contracts renewed during the cuts, which also affected the applicants. After analyzing the process used to assess the applicant, the investigator concluded that the decision not to renew his contract was not based on discriminatory grounds or on the fact that the applicant refused to sign the assessment preceding his dismissal.

[9] Lastly, the investigator found that the applicant had not submitted any evidence in support of his allegations of discrimination and that the investigation did not suggest that the applicant had been discriminated against in a competition for a position or that he was not offered a new contract on discriminatory grounds.

## V. Analysis

### A. *Standard of review*

[10] The issue in this case is reviewable against a standard of reasonableness: *Lamolinaire v Bell Canada*, 2012 FC 789 at para 22.

### B. *Reasonableness of the decision*

[11] As noted by Justice Zinn in *Herbert v Canada (Attorney General)*, 2008 FC 969 at paragraph 18, “[i]n performing its screening function, the Commission is given a very broad discretion to determine “having regard to all of the circumstances” whether an inquiry is warranted”.

[12] The CHRC exercised its discretion in a reasonable manner. The applicant's allegations are not supported by any persuasive evidence. Moreover, the investigation report reveals that each of the applicant's claims was contradicted by his colleagues. The applicant was simply unable to demonstrate that his employer violated his rights. Upon considering all of the evidence on file, I believe that the CHRC's decision is reasonable in fact and in law.

[13] I also believe that there is nothing to suggest in this case that the CHRC did not comply with the principles of procedural fairness.

VI. Conclusion

[14] In my view, this application for judicial review should be dismissed.

[15] I agree with the request of counsel for the respondent that the respondent should be identified as "Attorney General of Canada".

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that**

1. The designation of the respondent is amended so as to read “Attorney General of Canada” rather than “Statistics Canada”.
2. The application for judicial review is dismissed with costs in the amount of \$500 against the applicant.

“George R. Locke”

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Judge

Certified true translation  
Johanna Kratz, Translator

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-1723-13

**STYLE OF CAUSE:** GANZA BUNZIGIYE v ATTORNEY OF CANADA

**PLACE OF HEARING:** OTTAWA, ONTARIO

**DATE OF HEARING:** FEBRUARY 17, 2015

**JUDGMENT AND REASONS BY:** LOCKE J.

**DATED:** APRIL 15, 2015

**APPEARANCES:**

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(ON HIS OWN BEHALF)

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FOR THE RESPONDENT

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