TD 3/ 88

Decision rendered March 9, 1988

THE CANADIAN HUMAN RIGHTS ACT S. C. 1976- 77, c. 33, as amended

In the Matter of a Hearing before a Human Rights Tribunal Appointed pursuant to Section 39 of the Act.

BETWEEN:

CLAUDE BOUCHER Complainant

-AND

THE CORRECTIONAL SERVICE OF CANADA Respondent

TRIBUNAL: WILLIAM I. MILLER, Q. C.

APPEARANCES:

RÉNÉ DUVAL, Counsel for the Complainant and the Canadian Human Rights Commission;

RAYMOND PICHÉ, Counsel for the Respondent;

DATES OF HEARING: January 27 and 28, 1987

DECISION OF TRIBUNAL

The Tribunal was appointed on October 7, 1986 to enquire into the Complaint lodged by Claude Boucher on February 6, 1985 against The Correctional Service of Canada for the purpose of determining whether the Respondent discriminated against him in an employment matter because of his disability contrary to the provisions of the Canadian Human Rights Act and, in particular, Section 7(a) of the Act.

The Hearing of the Complaint took place at the City of Montreal, Quebec, on January 27 and January 28, 1987. The notice of appointment of the Tribunal was entered into the record as Exhibit T- 1.

The Complaint alleges that during the period January 19 to May 18, 1984, the Respondent failed to transfer the Complainant to a position that was more suited to him, as a result of a disability which manifested itself in the form of a nervous depression.

The particulars of the Complaint are as follows: (in its original form):

"J'ai des raisons de croire que j'ai été victime de discrimination en contravention à l'article 7 de la Loi canadienne sur les droits de la personne par le mis en cause lorsque ce dernier en raison de ma déficience (dépression nerveuse) ne m'a pas muté dans un poste pour lequel j'étais apte en dépit du fait que j'avais été declaré excédentaire à cause de la fermeture du pénitencier où je travailais alors."

The Complainant was hired on December 20, 1976 as a Correctional officer and was assigned to one of the Respondent's super maximum security prison establishments known as the Centre de Developpement Correctionnel (CDC).

Initially, the Complainant seemed to fulfil all of his duties satisfactorily and on more than one occasion, was commended by management for his excellent performance.

On or about July 26, 1982, the Complainant suffered an anxiety attack and nervous depression and as a result thereof could no longer adequately perform his duties as a Correctional Officer.

The Complainant's nervous depression was apparently related to his work environment and his inability to adapt thereto. He was particularly uncomfortable being in close proximity to inmates and also felt uncomfortable with his superiors, whom he felt had been hounding him. It appears that the security aspect of his duties were particularly stressful to him. The nervous depression was so severe and debilitating that it caused the Complainant to be absent from his duties during the following periods:

a) December 24, 1982 to April 3, 1983; b) August 11, 1983 to November 1, 1983; c) November 24, 1983 to May 18, 1984; the latter date being the termination date of the Complainant's employment.

Only one Doctor, Michel Boissonneault testified at the Hearing although his evidence was supplemented by extracts of medical reports and opinions of other doctors which were contained in a Decision of the Social Affairs, Commission of the Province of Quebec dated October 29, 1986 and which was produced into the record as Exhibit R- 1.

Dr. Boissonneault, a general practitioner, had been treating the Complainant since August 1983. In his opinion, the Complainant's nervous depression was directly related to his work environment since the Complainant had no other known personal problems. He recommended that the Complainant should change jobs and based upon the job description related to him by the Complainant, he suggested that the latter could fulfil the duties of a Driver at a prison establishment.

The opinions and recommendations of the other doctors who did not testify, but based upon their documentary evidence, can be summarized as follows:

a) On August 5, 1982, Dr. Michel Breton concluded that the Complainant's nervous depression "was linked to his profession".

b) On September 15, 1982, Dr. Réné Charbonneau, Chief of Psychiatry at Jeanne d'Arc Hospital, found that there was tension between the Complainant and the inmates, as well as between the Complainant and his superiors. He concluded that the Complainant, nonetheless, was able to fulfil his duties and that no change in his position was called for. In addition, he wrote that if the Complainant's performance continued to be inadequate, then either suspension or dismissal would be appropriate, since the Complainant appeared to be mentally competent to fulfil his duties as a Correctional Officer.

c) On January 18, 1983, Dr. Breton wrote that the Complainant came to see him in December 1982, was in a state of severe depression and was referred by him to Dr. Berthiaume for an evaluation that was to take place on January 19, 1983;

d) On January 31, 1984, Dr. Charbonneau wrote that the Complainant requested a transfer to another Ministry where there would be no contact with inmates. The Complainant told him that he was unable to adapt to a prison environment. Dr. Charbonneau recommended that the Complainant should be re- oriented and given a position far from inmates, and preferably in another Ministry. He summarized Complainant's psychological handicap as including poorly controlled agressive behavior, a tendency to complain, immaturity, depressive tendencies and absenteeism.

e) On May 25, 1984, Dr. Boissonneault wrote that the Complainant was permanently unfit for the position of Correctional Officer and should be offered a less stressful position. (Underlined by the Tribunal).

f) On April 25, 1984 Dr. J. Gilles Pelletier recommended that the Complainant could work at a minimum security establishment with a lower danger level.

g) On February 22, 1984, Dr. Gendron of Health and Welfare, Canada, based on his review of the Complainant's medical file, classified him as unfit to work with inmates.

On March 91 1984, Robert Caron, Interim Director of the Respondent, pursuant to Section 31 of the Public Service Employment Act, recommended that the Complainant be released from employment with the Respondent due to an incapacity to fulfil his duties as a Correctional officer and the impossibility of transferring him to a more suitable position, and notified Complainant of his recommendation.

The Complainant appealed Mr. Caron's recommendation to the Public Service Commission on April 26, 1984 and after his representatives declared that he was not in a position to contradict the evidence offered on behalf of the Respondent, his appeal was rejected.

On May 7, 1984, the Public Service Commission notified the Complainant that the recommendation to release him had been approved and that his dismissal would take effect as of May 18, 1984.

While the foregoing process of evaluations, absenteeism and recommendations leading to the Complainant's eventual release from his employment were taking place, the Complainant was attempting to obtain a transfer to a different position with the Respondent.

In April 1983, before it had become official, the Complainant became aware that the CDC was to be closed and that all employees stationed there were to be given adminstrative priority with respect to possible placement at other correctional institutions and consequently, Complainant submitted a series of transfer requests which can be summarized as follows:

a) On April 5, 1983, as a first choice, Complainant requested a transfer as Correctional Officer to the Centre de Reception at St- Anne de Plaines.

b) On the same date, as a second choice, the Complainant requested a transfer as Correctional Officer to the Drummondville establishment.

c) On September 7, 1983, the Complainant submitted two additional transfer requests with the stated reasons for transfer being that Complainant desired a position where there would be less tension from inmates. The first request was for the position of Warehouseman in Laval, Montreal or "environs" and the second, was for the position of Driver in Laval, Montreal or "environs".

d) On January 19, 1984, while the Complainant was on leave of absences which is referred to above, a letter was sent to him from the Deputy Commissioner, Public Service, Canada, confirming the closing of the CDC establishment and offering the Complainant the position of Correctional Officer at either the Laval or St- Anne de Plaines region, if he was not transferred to the Centre Regional de Reception or to Drummondville.

e) On March 11, 1984 the Complainant submitted an additional request for transfer to the establishment in Laval as a Correctional Officer or Driver.

f) On April 12, 1984 pursuant to a request from Interim Director Caron, the Complainant submitted an additional transfer request with three choices in the following order of priority:

1) Centre Federal as a Driver or Correctional Officer; 2) LeClerc as a Driver or Correctional officer; 3) As a Driver;

None of the Complainant's requests for transfer were granted by the Respondent. The Complainant alleges that the Respondent did not fairly consider his requests for transfer on the ground of illegal discrimination related to his disability, i. e., nervous depression. The Complainant alleges, in particular, (as above set forth) that during the period of the alleged discrimination, January 19 to May 18, 1984, three driving positions became available for which the Complainant was suited. Two were located at Drummondville and one in Cowansville, both being medium security institutions.

At the Hearing, the Respondent did not deny that it disregarded Complainant's requests for transfer. On the contrary, Respondent's position was that the requests for transfer were not granted, essentially for the following three reasons, namely:

1) During the period of the alleged discrimination, the Complainant was on leave of absence and consequently could not be considered for any vacant position due to his unavailability or incapacity.

2) The Complainant was not considered for the transfer because he was not fit to work in a prison environment whether as a Correctional Officer or in any other capacity either as Driver, Warehouseman or otherwise.

3) The Complainant was not considered for the three specific vacancies that became available during the relevant period since his requests were for positions located in Montreal, Laval or vicinity, which excluded the Drummondville or Cowansville establishments.

The common thread recurring throughout the first and second grounds is the issue of whether or not the Complainant's unfitness to carry out his duties as a Correctional officer would also extend to the position and duties of a Driver, since if the Complainant was able to carry out the duties of a Driver without being adversely affected by his disability, there is no reason to assume that his absences would continue.

It is not contested that all of the Complainant's leaves of absence including the absence during the period January 19 to May 19, 1984 were the result of his disability in the form of nervous depression. The Complainant's absenteeism was due to a disability which made him unfit to carry out the duties of a Correctional Officer in a prison establishment.

On the other hand, it is evident that the, Respondent, in not following up or in failing to give serious consideration to the Complainant's requests for transfer, acted under the assumption that the Complainant's absenteeism would most probably continue notwithstanding a transfer to the position of a Driver.

It is evident from a letter which Jacques Labonté, the Respondent's Regional Administrator of Personnel sent to Michel Pitre, of the Canadian Human Rights Commission on April 2, 1985, (Exhibit C- 26), as well as the testimony of Rénald Tremblay, Personnel Director, Quebec Region, that they had concluded that the Complainant was not only unfit to carry out his duties as a Correctional Officer, but also was unfit to carry out the duties of a Driver in a prison establishment.

Their conclusions were evidently derived from the medical evidence referred to above which they have applied and interpreted as concluding that the Complainant is unfit to carry out any position whatsoever in a prison environment.

It is, however, important to note that according to Mr. Tremblay, the expert medical advice sought by the Respondent was obtained for the particular purpose of evaluating the Complainant's fitness as a Correctional Officer. The Respondent never made any specific request to evaluate the Complainant as a Driver. In fact, subsequent to Dr. Gendron's classification of Complainant on February 22, 1984 as being unfit to work with inmates, which was a conclusion based entirely upon his review of Complainant's dossier and not the result of any direct contact between himself and the Complainant, Dr. Pelletier on April 25, 1984

recommended that the Complainant could work at a minimum security institution where there existed a lower danger level. To the same effect, Dr. Boissonneault on May 25, 1984 declared that the Complainant could work at a less stressful position, presumably within the correctional service.

Unfortunately, the foregoing opinions were offered subsequent to the Complainant's release from employment and could not therefore be considered with respect to the Complainant's requests for a transfer.

Based upon the evidence as a whole, and, more particularly, the foregoing medical evidence, the Tribunal has concluded that the Respondent, in having failed or neglected to give due and proper consideration to Complainant's requests for transfer, discriminated against the Complainant and this because of his disability.

In arriving at this conclusion, the Tribunal considers that, although in the normal course of events, a request for transfer would result in a follow- up procedure such as interviews and competitions among prospective candidates, no such opportunity was provided to the Complainant notwithstanding that he had submitted several requests during the final year of his employment, and notwithstanding that due to the closing of the CDC, the Complainant, among other surplus employees, was entitled to administrative priority treatment. Indeed, the evidence is to the effect that the Complainant was the only former employee of the CDC who was not offered suitable alternate employment.

The evidence indicates, in particular, that with respect to the position of Driver that became available at Cowansville, the following selection process occurred.

The Staffing Officer consulted the Regional Transfer Inventory on December 12, 1983 and two candidates were considered to be interested, Pierre Nadeau and Yves Fleury. The Selection Committee was comprised of Jean Charles Dupont and Jean Pichet who interviewed both candidates, evaluated their respective qualifications and selected Mr. Fleury for the position. As already noted, the Complainant was not amongst those considered for the position.

It seems evident to the Tribunal that in the normal course of events, when the Staffing Officer examined the Inventory of Transfer Requests, he should have been aware or been made aware of the Complainant's requests for transfer to a position of Driver. According to the testimony of Mr. Tremblay, in an occupational group such as Drivers where the number of total positions is less than in the Correctional Officer group, transfer requests are normally filed according to occupational group or sub- group as opposed to being filed according to the requested prison establishment. For example, all requests for Driver positions, notwithstanding the location of the desired establishment, are grouped together. Consequently, if the Complainant's requests for transfer had been treated in the normal course, he should have been considered for the Cowansville position along with Mr. Fleury and Mr. Nadeau. The fact that the Complainant's transfer requests were not taken into account, taken together with Mr. Labonté's explanation in his letter of April 2, 1985, clearly indicates that the Respondent did not give due and proper consideration to Complainant's transfer requests.

The Tribunal has also noted the contradiction in the evidence between the version of events as testified by Mr. Tremblay and Mr. Labonté. Although Mr. Labonté's letter (Exhibit C- 26) clearly states that the Complainant's absenteeism was a factor in the Respondent not giving effect to the transfer requests, Mr. Tremblay testified that the Complainant's lengthy absences were not a factor at all.

Mr. Labonté further testified that to the extent that Complainant's requests for transfer did not specifically mention the Drummondville or Cowansville establishments this constituted a reason why he was not considered for those establishments. This clearly contradicts > -14- Mr. Tremblay's explanation of the selection process and, in particular, the fact that requests for Driver positions are filed according to occupational groups and not according to the identity of the desired establishment.

The Tribunal concludes that the Respondent failed to consider the Complainant for the position of a Driver due to its assumption that the Complainant was unfit to work at any position in the prison environment. in arriving at this conclusion, however, it relied upon medical evaluations that had been requested for the declared purpose of evaluating Complainant's suitability as a Correctional Officer, and for no other position.

The Tribunal considers that although Dr. Charbonneau on January 31, 1984 recommended that the Complainant be transferred to another Ministry far from the Penitentiary environment, there is no indication that Dr. Charbonneau considered the possibility that the Complainant would be suitable as a Driver, which is a less stressful position than that of a Correctional Officer. Had he been requested to make such a determination, he may very well have come to a different conclusion, as did Doctors Boissonneault and Pelletier.

This Tribunal shares the opinion of the Tribunal (Nicole Duval Hesler) expressed in the Decision rendered in the case of Brian Villeneuve vs Bell Canada (1985) 6 CHRR D/ 473 (which Decision was overturned by the Review Tribunal on unrelated grounds (1986) 7 CHRR D/ 3519 and which latter Decision was, in turn, appealed to the Federal Court of Appeal) when it declared at paragraph 24141:

Counsel for the Commission stated in its argument that there appeared to have been a general assumption about Mr. Villeneuve's physical problems, and that no attempt had been made to evaluate his personal ability to perform the duties of the position. This point is worth making. The Tribunal shares the opinion that the Act calls for a personal evaluation of the individual performing the job. This point of view was very aptly stated by Ms. Susan MacKasey Ashley in the case of Michael Ward vs Canadian National Express (1982, 3 CHRR D/ 689:

"The burden is on the employer to show that its physical requirement is rationally based and is not founded on unwarranted assumptions or stereotypes, i. e., that "it is supported in fact and reason."

It having been established by the evidence on the whole that the Respondent had engaged in a discriminatory practice in having refused to consider Complainant's various requests for transfer to a less stressful employment as a Driver, the Respondent thereupon had the burden of proof to

establish, on the balance of probabilities, that the Complainant, due to his disability, was not fit to be considered for the position of Driver or to fulfil that function. (See: Via Rail Canada Inc. v Butterill et al 1982 2 F. C. 830 In the opinion of the Tribunal, the Respondent has failed to discharge this burden.

In the opinion of the Tribunal, the medical evaluations requested by the Respondent with a view to determining the fitness of Complainant to perform the duties of a Correctional officer do not avail or suffice to discharge the burden of proof, and thereby exculpate Respondent, particularly in the light of the opinions of Doctors Boissonneault and Pelletier who, at the very least, leave the door open to the reasonable possibility, indeed the probability, of the Complainant's fitness to remain in Respondent's employment in the capacity of a Driver.

The Complaint having been substantiated, it now remains for the Tribunal to deal with the issue of compensation as provided in Sections 41(2)(b), 41(2)(c) and 41(3)(b) of the Canadian Human Rights Act. While the Tribunal hastens to declare that the discrimination practised against the Complainant was neither wilful nor reckless, nevertheless the effects of the discriminatory practice against Complainant must necessarily give rise to the application of the aforesaid Sections of the Act.

As a result of the discriminatory practice, the Complainant was denied the opportunity of being considered for three vacant positions as a Driver. On the other hand, because of the fact that employment positions with the Respondent are invariably filled in accordance with the provisions of the Public Service Employment Act and its Regulations, there was neither certainty nor assurance that even if due and proper consideration had been given to the Complainant's requests for transfer, that he would have been selected. This is a factor which must obviously be taken into account by the Tribunal in fixing the compensation to which Complainant is entitled.

Pursuant to Section 41(2)(b) of the Act, the Tribunal may make an order against the person found to have engaged in the discriminatory practice, "that such person make available to the victim of the discriminatory practice on the first reasonable occasion such rights, opportunities or privileges as, in the opinion of the Tribunal, were denied the victim as a result of the practice."

Moreover, pursuant to Section 41(2)(c) the person found to have engaged in the discriminatory practice may be ordered to compensate the victim for any or all of the wages that the victim was deprived of and any expenses incurred by the victim as a result of the discriminatory practice.

In addition, pursuant to Section 41(3) (b) where it is established that the victim of the discriminatory practice has suffered in respect of feelings or self respect as a result of the illegal practice, the Tribunal may order the person to pay such compensation to the victim, not exceeding $5,000.00, as the Tribunal may determine.

Applying the foregoing Sections of the Act to the circumstances of the present case, the Tribunal considers it just and reasonable to order that, for a period of one year from the date that the parties are notified of the present Decision, the Complainant shall be fairly and properly considered by the Respondent, according to the norms and procedures set out in the Public Service Employment Act and Regulations, for any and all positions as a Driver which may

become vacant or available during such period at any of the Respondent's establishments situated in the Province of Quebec. In fixing the one year period, the Tribunal considers that in the normal course, requests for transfer received by the Respondent from its employees are ordinarily valid and subsisting for a period of one year.

In the event that the Complainant is selected and placed in such position, he shall be accorded all rights, opportunities and privileges as if he had never been released from his employment with the Respondent and, as if his requests for transfer or any one of them had been accepted prior to his dismissal.

The Tribunal has furthermore concluded that pursuant to Section 41(2)(c) of the Act, the Complainant is entitled to compensation, "for any or all of the wages that the victim was deprived of", as a result of the Respondent's discriminatory practice. In view of the fact, however, as has already been noted the Complainant, at the date of his discharge, was no longer in the gainful employment (i. e., earning wages) of Respondent due to his leaves of absence, the question arises as to whether Section 41(2) (c) can be applied in the circumstances of the present case. In other words, it is not so much a question of "wages lost" as a result of the discriminatory act, but rather one of compensating the Complainant for the loss of the opportunity to compete for the job as Driver which, in the event of his selection, would presumably have resulted in the financial gain.

In this respect, the Tribunal has been guided by the principles and authorities set out in the case of Michael Dantu, et al v North Vancouver District Fire Department, Vol. 8, Decision 584, January 1987, D/ 3649, in which this same issue was addressed.

In a thorough review of the applicable jurisprudence rendered by the various Courts and Human Rights Tribunals, Robin M. Elliot, sitting as the Tribunal, accepted and applied the principle that there is a legal basis and justification for compensating someone for the loss of an opportunity to compete for a job, provided it is established that on the balance of probabilities, the Complainant would have succeeded in obtaining the job and the financial reward (i. e., the wages) associated with it.

Although the Dantu case was based upon the B. C. Human Rights Code (since replaced by the Human Rights Act) rather than the Canadian Human Rights Act as in the present instance, its relevant provisions are nevertheless identical. Moreover, while the Tribunal concluded in that case that the Complainant would not have been hired by the Respondent even if he had not been the victim of the discriminatory act, the principles governing that Decision are fully applicable to the facts of this case.

The Tribunal is persuaded that on the basis of the evidence produced in the present case as a whole, that had the Complainant's request for transfer to the position of a Driver been properly and fairly considered, there was a probability or likelihood, and certainly without doubt, a reasonable possibility that the Complainant would have been hired and retained as an employee. As already stated, not a certainty or assurance but some reasonable probability which is the legal standard to be applied. In this regard, it should be noted that the Respondent failed to adduce any evidence which would suggest that the Complainant did not possess the qualifications or was

otherwise unsuited to serve in the capacity of a Driver or would clearly have failed to be the successful applicant had his transfer requests been duly and properly considered.

Dealing now with the question of the quantum of the compensation to which the Complainant is entitled in respect of "lost wages", the evidence reveals that at the date of his release from employment by the Respondent, Drivers employed by the Respondent were earning $18,877.71 per annum. Seeing, however, that the Complainant's alternate source of revenue realized by him during the year 1984 was in excess of that earned by Respondent's Drivers, no compensation is warranted for that year.

The evidence further revealed that Respondent's Drivers earned approximately $22,373.07 in 1986. By averaging the aforesaid 1984 and 1986 salaries, the Tribunal estimates (since no evidence was produced by either party as to the actual salaries paid to Respondent's Drivers in 1985) that the Respondent's Drivers were earning a salary of approximately $20,625.00 during the year 1985.

The verbal and documentary evidence produced at the Hearing indicates that during the year 1985 the Complainant actually earned a total of $16,088.00 which is $4,537.00 less than he would have earned had he been considered by the Respondent and been selected as a Driver.

The Complainant had a legal obligation to mitigate his loss and damages incurred as a result of his termination of employment, and according to the evidence, the Complainant did make a serious effort to obtain alternate forms of employment and other sources of income and in the year 1986 the Complainant actually realized revenues of $14,619.94, resulting in a deficiency of $7,753.13.

At the date of Hearing of the present case, the Complainant's projected revenue or income for the year 1987, was $15,600.00, based upon the production of one salary pay slip and well as the Complainant's uncontradicted testimony that he earned a gross of $600.00 payable every two weeks. At the same time, the estimated earnings of a Driver for Respondent during the year 1987 was $23,379.86 (which comprised the rate paid in 1986 plus a 4.5% cost of living increase based upon CPI Statistics Canada for the year 1987, thereby resulting in a deficiency of $7,779.86.

Since it is not at all certain that the Complainant would have been selected for the Driver's position even if he had been fairly and properly considered by the Respondent for such employment, the Tribunal considers that it is fair and reasonable to apply a factor of one third (1/3) to the difference in lost wages, taking into account that for the Cowansville position, for example, two other candidates had applied for such position.

The aforesaid sums of $4,537.00 (for the year 1985), the sum of $7,753.00 (for the year 1986) and the sum of $7,779.00 (for the year 1987) form a total of $20,069.00 which, applying the above factor, results in a net amount of $6,689.00 which the Tribunal estimates is a fair and reasonable determination of the wages which Complainant was deprived of as a result of the discriminatory practice of which he was the victim.

As already indicated, the Tribunal considers that there is justification for awarding the Complainant additional compensation referred to in Section 41(3)(b) as a result of having been the victim of a discriminatory practice and which amount is awarded not in the form of a penalty but rather is based upon the evidence that the Complainant has indeed suffered in respect of his feelings and self respect as the victim of a discriminatory practice. Although the Act provides for such additional compensation not to exceed $5,000.00, as already pointed out, the Tribunal does not consider that the discriminatory act was motivated wilfully or recklessly and therefore considers an amount of $2,500.00 to be fair and reasonable in all of the circumstances of the present case.

DECISION AND ORDER:

For the above reasons, the Tribunal:

1) DECLARES the Complaint in the present case to be well founded in that the Respondent, though not wilfully or recklessly, has nevertheless engaged in a discriminatory practice in contravention of the Canadian Human Rights Act by having failed, refused or neglected to consider the Complainant's requests for transfer to a Driver's position on the ground of Complainant's disability, the whole in violation of and contrary to the provisions of Section 7 of the Act;

2) ORDERS the Respondent, the Correctional Service of Canada, to fully, fairly, and properly consider Complainant, according to the norms and procedures set out in the Public Service Employment Act and Regulations, for any and all positions as Driver which become vacant or available in the Province of Quebec during the period of one year following the notification to the parties of the present Decision;

3) ORDERS that in the event that the Complainant is selected and placed as a Driver in one of the Respondent's institutions, that he be vested and accorded all rights, opportunities and privileges as if he had never been released from employment with the Respondent and as if his requests for transfer or any one of them had been accepted prior to his dismissal;

4) ORDERS the Respondent, the Correctional Service of Canada, to pay Complainant the sum of $6,689.00 as compensation representing lost wages for the years 1985, 1986 and 1987;

5) ORDERS the Respondent, the Correctional Service of Canada, to pay Complainant the further sum of $2,500.00 as compensation for suffering in respect of his feelings or self respect pursuant to Section 41(3)(b) of the Canadian Human Rights Act;

6) ORDERS that the aforesaid sums of $6,689.00 and $2,500.00 which forms a total of $9,189.00 shall bear interest from the date this Tribunal was appointed, namely, October 7, 1986, at the prevailing prime lending rate in force at one of Canada's Chartered banks.

DATED AT MONTREAL, QUEBEC, THE 29th DAY OF FEBRUARY, 1988

WILLIAM I. MILLER, Q. C. TRIBUNAL