

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20190409**

**Docket: A-93-18**

**Citation: 2019 FCA 72**

**CORAM: WEBB J.A.  
BOIVIN J.A.  
RENNIE J.A.**

**BETWEEN:**

**GHANI OSMAN**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Toronto, Ontario, on April 8, 2019.

Judgment delivered at Toronto, Ontario, on April 9, 2019.

**REASONS FOR JUDGMENT BY:**

**BOIVIN J.A.**

**CONCURRED IN BY:**

**WEBB J.A.  
RENNIE J.A.**

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**ATTORNEY GENERAL OF CANADA**

**Respondent**

**REASONS FOR JUDGMENT**

**BOIVIN J.A.**

[1] Mr. Ghani Osman (the applicant) seeks judicial review of a decision of the Federal Public Sector Labour Relations and Employment Board (the Board) dated February 26, 2018 (2018 FPSLREB 15). In its decision, the Board determined that the settlement agreement between the applicant and his employer, the Department of Employment and Social Development, was valid and binding and that it lacked jurisdiction to reopen the grievance.

[2] In June 2016, the applicant referred a grievance to adjudication. Following mediation, the parties initially signed an agreement on November 30, 2016. The applicant later requested that the agreement be amended. This led to an amended settlement agreement which was signed on various dates commencing with December 6, 2016. The applicant accordingly withdrew his grievance on December 23, 2016.

[3] As part of the settlement agreement, the employer agreed to provide the applicant with a positive reference letter. The applicant received a draft of this letter on December 1, 2016 and he did not request modifications at that time.

[4] In March 2017, the applicant contacted the employer stating that his reference letter was unsatisfactory. He requested that the reference letter be amended to correct his job title, reflect the entirety of his work for the Public Service, discuss his performance and reference his interest in labour relations. The employer corrected the job title.

[5] Unsatisfied with his reference letter, the applicant wrote to the Board in September 2017, asking it to determine whether a valid and binding settlement agreement had been reached. He also alleged that he had been led to sign the settlement agreement based on misrepresentations made by the employer.

[6] The Board concluded that the settlement agreement was final and binding and that there were no grounds for the Board to reopen the grievance.

[7] It is well-settled that the Board is recognized for its expertise in labour relations in the federal public service. Hence, the applicable standard of review in this case is reasonableness, which generally attracts a deferential standard: *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para. 51 [*Dunsmuir*]. In assessing procedural fairness, the Court has to be satisfied that procedural fairness has been met, otherwise it will intervene (*Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69, [2018] F.C.J. No. 382).

[8] I am of the view that this application for judicial review cannot succeed.

[9] In its decision, the Board noted that the only point of disagreement had to do with the reference letter. It was reasonable for the Board to conclude that the applicant was “fully informed as to the terms of settlement” (Board’s decision at para. 16) and therefore there was no misrepresentation. Indeed, although the applicant states that he was misled regarding the contents of the reference letter, it was reasonable for the Board to find that the fact that the applicant had a copy of the said reference letter when he signed the amended settlement agreement barred him from later claiming that the letter was inadequate. It was thus open to the Board to conclude that the terms of the settlement agreement had been properly executed and that there were no grounds to reopen the grievance which was withdrawn by the applicant.

[10] The applicant also was provided ample opportunity to be heard. For instance, after receiving the applicant’s request, the Board wrote to the applicant asking him to provide detailed submissions, which he later provided, and the Board held a teleconference during which the applicant was represented. Furthermore, both the applicant’s submissions and the respondent’s

submissions before the Board addressed the underlying question whether there was a valid and binding settlement agreement in the circumstances. I see no procedural unfairness.

[11] As a result, the application for judicial review should be dismissed with costs fixed at \$2,500 including disbursements and taxes.

"Richard Boivin"

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J.A.

"I agree  
Wyman W. Webb J.A."

"I agree  
Donald J. Rennie J.A."

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-93-18

**STYLE OF CAUSE:** GHANI OSMAN v. ATTORNEY  
GENERAL OF CANADA

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** APRIL 8, 2019

**REASONS FOR JUDGMENT BY:** BOIVIN J.A.

**CONCURRED IN BY:** WEBB J.A.  
RENNIE J.A.

**DATED:** APRIL 9, 2019

**APPEARANCES:**

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Richard Fader FOR THE RESPONDENT  
Adam Gilani

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