

Rights board gives employers 'warning call'

Airline must pay man not hired because of his ethnicity

BY MICHAEL FRISCOLANTI

A ruling that may prompt some employers to re-examine the way they conduct job interviews, Air Canada has been ordered to compensate a Toronto man who was denied employment because of his ethnicity.

Citing serious flaws in the recruiting process, the Canadian Human Rights Tribunal awarded thousands of dollars in lost wages to Mags Premakumar, a Tamil man turned down for a job as a baggage handler.

The ruling marks a personal victory for the 46-year-old Sri Lankan migrant, but it also sends a clear warning to human resource departments across the country: document everything.

"You hear about it far too often," said Catherine Barratt, a spokes-

woman for the Canadian Human Rights Commission. "People who are interviewing applicants for a position are either not making interview notes, or making them and not keeping them."

In this case, the airline's records were so shoddy that officials simply could not produce substantial evidence to combat the discrimination charges.

"This is a warning call," said Toronto lawyer Davies Bagambire, who represents Mr. Premakumar. "Companies have to keep a good documentation of their hiring records. [The airline] guys kept saying that they couldn't remember a single thing about my client, and that may very well have been the case. But there was nothing to go by. Their records were pathetic."

Mr. Premakumar's discrimination complaint was originally filed against Canadian Airlines, but Air Canada assumed all outstanding legal liabilities from the defunct airline when the companies merged two years ago.

The ordeal began in early 1998,

when Canadian Airlines set out to hire 57 new luggage attendants at Pearson International Airport in Toronto.

Mr. Premakumar, who had significant experience working at airports in both Canada and Sri Lanka, considered himself a front-runner for the job. He was already working part-time as a cabin clean-

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er for Air Canada (he still holds that job), and in 1995, he spent six months working in the luggage department at Canadian Airlines.

At the end of March, 1998, he met with Kerry Demeda, a recruitment co-ordinator with the airline, and Rick Chiappetta, one of the senior ramp workers.

"Mr. Premakumar left the interview feeling confident that he had gotten the job," reads the tribunal's

decision, which was released this week.

A few days after the interview, however, Mr. Premakumar, a Canadian citizen, received a letter saying he had been turned down for the position. When he phoned the airline to find out the reason why, he was told it was company policy not to discuss hiring decisions with unsuccessful candidates.

In all discrimination cases, it is up to the complainant to convince the tribunal there is a chance some form of prejudice has taken place. If that is accomplished, the accused then has the burden of proving the allegations false.

In Mr. Premakumar's case, a review of the material related to the successful candidates revealed some troubling trends. Only one of the people hired had work experience at Canadian Airlines and many of them had never even worked at an airport.

"Many, if not most, of the candidates appear to be no better qualified for the position ... than Mr. Premakumar, and several appear

to be less qualified," the decision reads.

The airline, forced to assume the burden of proof, argued Mr. Premakumar lacked the necessary soft skills, such as leadership and initiative, necessary to succeed at the company.

Notes from the interview, however, paint a different picture. When asked to give an example of when he was forced to work under time constraints, Mr. Premakumar mentioned the day he rushed to load a plane with suitcases so the pilots could meet their departure time.

Mr. Chiappetta, however, recorded Mr. Premakumar as simply saying: "Just do the job take my time!"

A few minutes later, the interviewer wrote: "Why did we hire this guy in the first place!"

The tribunal, citing "entirely speculative and quite unsatisfactory" evidence, found it hard to believe Mr. Premakumar would perform poorly at his interview.

"He is clearly an intelligent man, one who very much wanted this

job," the decision reads. "In this context, it is simply not credible that he would answer a question about working under time constraints by saying that he would do the job and take his time."

Air Canada has 30 days to apply for a judicial review of the case, but only two weeks to work out the details of Mr. Premakumar's compensation, which includes \$4,000 for pain and suffering, an undisclosed sum of lost wages and a letter of apology from Mr. Chiappetta.

"It is important to note that the complaint was not lodged against Air Canada, nor did the tribunal challenge the hiring practices of Air Canada," said Air Canada spokeswoman Laura Cooke, adding company lawyers are considering whether to file a judicial review. No matter how Air Canada decides to proceed, the case has already set a precedent for other Canadian companies.

"It would be terrible if sloppy record keeping was sufficient to isolate people from human rights abuses," said Constance Backhouse, the director of the Human Rights Centre at the University of Ottawa. "But now companies can't say 'We're convinced we didn't [hire someone] because of race or ethnicity, but we can't prove that.'"

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MP regrets comparison

OWEN

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Only moments before, Mr. Owen had repeated comments he made to *The Vancouver Sun* comparing young natives to Palestin-