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CANADIAN HUMAN RIGHTS TRIBUNAL AWARDS OVER \$ 500,000 AGAINST EMPLOYER

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An ex-RCMP trainee has been awarded over \$500,000 by the Canadian Human Rights Tribunal. Mr. Tahmourpour, a Muslim Canadian who was born in Iran, was successful in his claims of discrimination and harassment on the basis of race, religion and ethnic or national origin.

Mr. Tahmourpour commenced his RCMP training in Regina in 1999. After three months his training was terminated, and his application for re-enrolment was denied.

The tribunal found that Mr. Tahmourpour was subjected to discriminatory treatment during and after his training. Mr. Tahmourpour was permitted to wear a religious pendant, in spite of a RCMP requirement that no jewellery be worn. The tribunal found, however, that Mr. Tahmourpour was singled out by a superior in front of other cadets because of the religious pendant, and that while unintended, the jewellery policy adversely differentiated against Mr. Tahmourpour on the basis of religion. It was also found that a particular corporal, Corporal Boyer, made derogatory comments to Mr. Tahmourpour about the Persian style in which he signed his name, and was especially verbally abusive and hostile toward him because he was a visible minority. Further, the tribunal found that the RCMP's performance assessments of Mr. Tahmourpour, and the decision to terminate his training, were improper and discriminatory. The refusal of the RCMP to re-enrol Mr. Tahmourpour was also found to be discriminatory.

With respect to the allegation of harassment by three corporals, the tribunal found that only Corporal Boyer harassed Mr. Tahmourpour. While the corporal was known to be aggressive with all cadets, it was found that he was significantly more aggressive with Mr. Tahmourpour and other visible minorities.

Having found that Mr. Tahmourpour was the subject of discrimination and harassment, the tribunal ordered that:

- The RCMP offer Mr. Tahmourpour an opportunity to re-enrol in the training program
- If Mr. Tahmourpour accepts re-enrolment, the RCMP undertake a fair assessment of his skills at the outset of the training to determine areas in which training is needed
- The RCMP compensate Mr. Tahmourpour for lost salary and benefits
- The RCMP take measures to prevent systemic discrimination in the future
- The RCMP pay \$9,000 to Mr. Tahmourpour for pain and suffering

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- The RCMP pay \$12,000 to Mr. Tahmourpour in “special compensation” for wilful and reckless discriminatory practices
- The RCMP pay Mr. Tahmourpour \$9,500 to compensate for expenses incurred as a result of Mr. Tahmourpour’s efforts to mitigate his damages
- The RCMP pay Mr. Tahmourpour’s legal expenses
- The RCMP pay interest to Mr. Tahmourpour on the amounts awarded

This award is noteworthy because of the extremely high amount awarded to the claimant. Employers should accordingly be aware of their exposure to potentially substantial monetary awards arising from human rights litigation. It should be pointed out, however, that a considerable portion of the award represents lost salary and benefits. This is because more than eight years passed between the termination of Mr. Tahmourpour’s training and the date of the tribunal’s award. The “special compensation” and pain and suffering awards, on the other hand, are not as significant.

ABOUT THE AUTHOR :

Meredith Wain is a member of our Labour and Employment Group in Toronto. She provides legal services and advice to a wide range of clients in the private and public sectors.

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