

IN THE MATTER OF AN ARBITRATION
BETWEEN :

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CAMBRIAN COLLEGE
(hereinafter called the "Employer")

- and -

THE ONTARIO PUBLIC SERVICE
EMPLOYEES UNION
(hereinafter called the "Union")

[Grievance of E. A. Freelandt -
OPSEU File #87J87]

BOARD OF ARBITRATION:

E. E. Palmer, Q.C.
Chairman

J. McManus

A. S. Merritt

APPEARANCES FOR THE COLLEGE:

B. Bowlby & Others

APPEARANCES FOR THE UNION:

I. Roland & Others

The present arbitration arises out of a grievance filed by a Teaching Master at Cambrian College on 17 February 1987. [See Exhibit I]. Essentially, this grievance claimed that upon her hire in 1980, Mrs. Freelandt had not been given appropriate credit for then existing experience in the determination of her initial salary. Accordingly, she requested certain relief. This claim was modified at the hearing, because of certain factors unnecessary to mention here, to the addition of two levels for such experience under Factor 1.B of the document entitled Job Classification Plans For Positions In The Academic Bargaining Unit [See Exhibit III].

This matter was not resolved during the grievance procedure and, hence, the present arbitration was necessitated, a hearing in relation to which was held in Sudbury, Ontario on 1 March 1988. At that time the parties were given an opportunity to present evidence and argument. It might be pointed out that the College raised one issue regarding the jurisdiction of this Board, i.e., the matter of timeliness of the grievance, but it was agreed that such could be dealt with along with the merits of the grievor's case.

The only testimony in this matter was given by the grievor herself and can be stated rather succinctly. Thus, it appears that Mrs. Freelandt had attended Laurentian University where she obtained an Honours Bachelor of Commerce degree. This degree was a four-year degree and was completed in April of 1977. Following that Mrs. Freelandt began work for Revenue Canada and continued there until December of 1980. Again, during this period of time Mrs. Freelandt applied to obtain her R.I.A. designation (now called a C.M.A.) in January of 1978. At that time such course involved five levels of training, encompassing

some eighteen courses. Additionally, it was required that two years of practical experience be obtained before the final designation of an R.I.A. could be used. The latter could be obtained before, during or after the taking of the above courses. Normally, it would appear that the work experience and the courses themselves would be taken together.

Because of the degree mentioned, Mrs. Freelandt was only required to take five of the eighteen courses for the R.I.A.: one at Level 3; one at Level 4; and the remaining three at Level 5. In short, the grievor was indicated as having finished Level 2 and was only required to take one of four courses at both Levels 3 and 4. She was required to take all three courses at Level 5. She completed all these requirements by the time she was employed by the College in August of 1980.

It should be noted, as well, that Mrs. Freelandt had left the employ of Revenue Canada in December of 1979 and opened her own accounting practice in Sudbury where she worked full time from January of 1980 until she began work with the Employer. Since, she has continued this work on a part-time basis.

At the time of her hire Mrs. Freelandt was interviewed by a representative of the College and her initial salary was determined. This is shown in Exhibit VI. Specifically, Mrs. Freelandt was given, under Factor A, which will be discussed later, three years of experience for her work with Revenue Canada. Additionally, she was given four years of experience under Factor B for her University degree from Laurentian. Additionally, she was told she would be given credit of one more year for her R.I.A. when it was finalized. It might be

noted that the substance of this designation had been achieved and it was only a matter of form that remained. Subsequently, due to an arbitration, such additional credit was given.

The gist of Mrs. Freelandt's claim in this matter is that she should be given credit for Levels 3 and 4 of the R.I.A. The first two years, of course, would be subsumed by her Honours Bachelor of Commerce degree and the latter by the subsequent credit afforded her.

At this point, it is useful to set out the language depended upon by the parties in relation to their argument in this case. This reads [See Exhibit III]:

FACTORS

I. Appointment Factors

A) Experience: Relevant Teaching/Relevant Occupational

Relevant occupational experience generally means full years of experience in a field of work related to the material to be taught, or to some allied aspect of it. In determining the number of years to be counted, the College hiring must avoid the extremes of counting either "years of time passed" or "years of entirely non-repetitive experience", and must make a fair assessment of an applicant's experience.

For example, an applicant who had spent some years as a sales clerk before qualifying as an engineer should not expect his sales experience to count as relevant experience if he is being hired to teach engineering.

Part-time experience should be totalled only if it forms part of a regular programme of development such as a co-operative educational programme.

Double counting must be avoided. For example, if an applicant worked as a graduate assistant while pursuing an advanced degree, he shall not be given full credit for both experience and educational time.

Similarly, relevant teaching experience means full years of teaching experience at a level comparable with the level required by the applicant. Again, double counting must be avoided, for example, if an applicant worked as a graduate assistant while pursuing advanced qualifications.

The values to be given for experience are:

- First 5 years 1 point per year
- Next 9 years 2/3 point per year
- Next 12 years 1/2 point per year

B) Relevant Formal Qualifications

Formal qualifications are those which constitute the norm in institutions of post-secondary education in the Province of Ontario. Only full years of post-secondary education at successively higher levels, and leading to a diploma, professional accreditation or degree, are recognized. For example, a graduate of a three-year technology program in a College would be given 1½ points for each of the three years, regardless of the length of time actually spent by the individual in obtaining the diploma.

No credit is to be given for a year of study in which there was significant duplication of other studies. Therefore only the highest qualification will be used in computation unless the subject areas are from different disciplines and all relevant to the appointment.

C.A.A.T. Diploma or Post-Secondary
Certificate - per year (level) completed: 1½ points
(Maximum of 4 years)

University Degree: per year (level)
completed: 1½ points
(Maximum of 6 years)

Formal integrated work/study program such
as P. Eng., R.I.A., C.A., C.G.A.
Certified Journeyman - per year (level)
completed: 1½ points
(Maximum of 5 years)
(Note that years included herein are not
also to be included under Factor A)

The Union position can be stated rather simply. Thus,

they claim that the completion of Steps 3 and 4 of the R.I.A. relates to "relevant formal qualifications". In fact, it is noted specifically as falling under Factor B. In support of their argument they note that one can gain "relevant teaching and occupational experience" while contemporaneously obtaining "relevant formal qualifications":

Re Cambrian College (Pepin Grievance), unreported (Samuels, 1986).

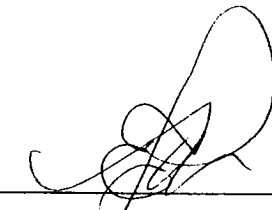
Therefore, the Union claims this grievance should succeed.

The College responded equally succinctly and, in the opinion of this Board, successfully. They accept that the Steps in the R.I.A. can give rise to credits under Factor B, but the requirements of such "formal integrated work/study program" must be fully met. In the present situation, however, the grievor was given significant credit for her R.I.A. because of her university training. In fact, she took only one course at each level. Thus, to give her credit under Factor B for these levels would offend the restriction against double-counting where there is "significant duplication" of studies.

We agree. While we accept the reasoning in the Pepin award, it is clear that there a different fact situation existed. In that case apparently a full programme of relevant studies was undertaken. Here it was not. Indeed, the two courses taken would not amount to the equivalent of one level of the R.I.A. programme.

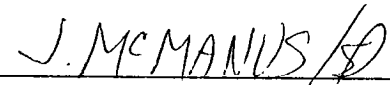
Accordingly, we dismiss this grievance.

DATED at Lynden, Ontario, this 15th day of May 1988.



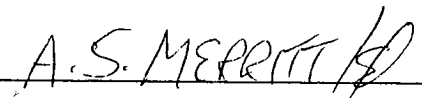
E. E. Palmer, Q.C.
Chairman

I ~~concur~~/dissent



J. McManus

I concur/~~dissent~~



A. S. Merritt

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D I S S E N T

Unfortunately, I am not able to agree with the majority decision.

The reasoning of the majority is extremely brief. The majority award simply distinguishes the Pepin award on its facts by saying "In that case apparently a full programme of relevant studies was undertaken. Here it was not." This is not a material distinction. A full programme of relevant studies was undertaken in this case, although the grievor was given credit for part of that full programme. As indicated by the majority decision, the grievor did complete her R.I.A. studies in full, which is a "programme of relevant studies".

The majority ignores the fact that the grievor completed two additional years of R.I.A., for which she has not been credited by virtue of her post-secondary education and to which she is

entitled to be credited in accordance with appointment factor "B Relevant Formal Qualifications" set out in the agreement.

The majority presumably denies the grievance on its perception of the equities, which it finds to be in favour of the College. That is, the majority states "Indeed, the two courses taken would not amount to the equivalent of one level of the R.I.A. programme".

Unfortunately, I cannot agree with the majority's approach to the equities of this grievance. The grievor has not been given credit for the additional courses that she took in the R.I.A. programme. It is only by virtue of taking these courses that she completed levels 3 and 4 of the programme, all of which has inured to the benefit of the employer. The equities of this case require that the grievor be awarded at least the equivalent of one level of the R.I.A. programme.

Accordingly, I would allow this grievance.

