

EMPLOYMENT EQUALITY ACT, 1977

EQUALITY OFFICER'S RECOMMENDATION NO: EE 06/1997

P A R T I E S

Mr. Jeremiah Murphy

AND

City of Waterford Vocational Education Committee

File No: EE 28/1996

1. DISPUTE

- 1.1** This dispute concerns an allegation by Mr. Jeremiah Murphy that Waterford VEC discriminated against him contrary to the provisions of the Employment Equality Act, 1977 on 22 January, 1996.

2. BACKGROUND

- 2.1** The claimant applied for the position of Clerical Officer (Grade III) with Waterford VEC. He was interviewed for the position on 22 January, 1996 and was subsequently notified that he was unsuccessful in his application.
- 2.2** On 28 June, 1996 the claimant referred a complaint to the Labour Court that Waterford VEC discriminated against him in terms of Section 2 of the 1977 Act. On 3 July, 1996 the Court referred the matter to an Equality Officer for investigation and recommendation. Submissions were received from both parties.

3. SUMMARY OF MR. MURPHY'S CASE

- 3.1** The claimant contends that Waterford VEC discriminated against him in terms of Section 2 of the 1977 Act.
- 3.2** In relation to his contention he states that at the interview he was asked various questions which were not relevant to the position, were not asked of female candidates and indicated that he was not being considered seriously for the position. He believes that he had more experience and was better qualified than

the other candidates and was deliberately excluded from appointment in order to give unfair preferential treatment to a female candidate. He believes that he was obliged to comply with the inessential requirement for this employment by the VEC of being a member of the Roman Catholic religion and the proportion of females able to comply with this requirement is substantially higher than the proportion of males.

4 SUMMARY OF WATERFORD VEC'S CASE

4.1 The VEC rejects the claimant's allegation that he was discriminated against in terms of the 1977 Act.

4.2 The VEC states that the claimant was an unsuccessful candidate for a post as Clerical Officer (Grade 3) in its employment. One hundred applications were received by the closing date, 12 January, 1996. Each application was examined by the Selection Board on 15 January, 1996 and twenty six candidates were shortlisted for interview, on the basis of qualifications and experience. These interviews were held on 19, 22 and 23 January, 1996 and the claimant was interviewed on 22 January, 1996. The results of the interviews, based on the recommendations of the Selection Board, were advised to all candidates on 26 January, 1996. Following this, a male candidate was appointed to the post and took up duty on 28 February, 1996.

5 CONCLUSIONS OF EQUALITY OFFICER

- 5.1** In making my recommendation, I have taken into account all the submissions made to me by the parties.
- 5.2** The claimant alleges that the VEC discriminated against him in terms of Section 2 of the Employment Equality Act, 1977 in relation to an appointment to a post of Clerical Officer (Grade III). In summary, the claimant alleges that he was :-
- treated less favourably than a woman because of his sex {Section 2(a)}
 - had to comply with an inessential requirement for this employment in respect of which much more women than men can comply {Section 2(c)}
- 5.3** The VEC denies that it discriminated against the claimant. It states that applications were received, examined by the Selection Board, candidates were shortlisted and as a result of these interviews, a male was appointed to the position.
- 5.4** Following a request from me for the evidence he had to support his allegation of alleged discrimination in view of the fact that a male candidate was appointed the claimant stated that
- a panel was formed of those interviewed and he was placed fourth on the list and he suggested that had he been female he would have been placed higher,
 - he asked whether the male candidate appointed was the first person to be offered the position
 - he asked if the VEC were denying that any of the three people placed ahead of

him were female.

5.5 Subsequently, on foot of a request from me, the VEC submitted the following information :-

- 100 applications were received for this post, of which 25 were male, 74 female and 1 whose sex was not known,
- 26 candidates were shortlisted, for interview, of which 5 were male and 21 female,
- no panel was created,
- one person (male) was appointed.

5.6 The main issue for consideration is whether or not the claimant was unlawfully discriminated against in terms of the Act. The evidence available to me does not support his contention that he was treated less favourably than a female because of his sex. Five males and twenty one females were interviewed and a male got the job. The fact that the successful candidate was a male does not support the claimant's contention that he was treated less favourably because of his sex in relation to his application for appointment to this post.

5.7 In relation to Mr. Murphy's claim that he had to comply with an inessential requirement for this employment in respect of which a substantially higher

proportion of females than males could comply, the evidence available to me does not support the claim that such a requirement was imposed. In my opinion the evidence in this case does not justify a finding that the VEC, either directly or indirectly, discriminated against the claimant in relation to his application for the post on the basis of either sex or marital status in terms of Section 2 of the Act.

RECOMMENDATION:

- 6.1** I find that the City of Waterford Vocational Education Committee did not discriminate against Mr. Murphy in terms of Section 2 of the Act and contrary to Section 3 of the Employment Equality Act 1977 .

Deirdre Sweeney
Equality Officer

16th April, 1997.