

**1. DISPUTE**

- 1.1** This dispute concerns a claim by Mr. Jeremiah Murphy that Dublin City University (D.C.U.) discriminated against him within the meaning of Section 2(a), Section 2(c) and Section 2(d) of the Employment Equality Act, 1997 when it did not appoint him to the position of Assistant Librarian (Information and Reference Services) in D.C.U. which he applied for in November, 1995.

**2. BACKGROUND**

- 2.1** The position of Assistant Librarian (Information and Reference Services) in D.C.U. was advertised in November, 1995 (copy attached in Appendix A). In the advertisement applicants were asked to contact the Personnel Office for further information and an application form. According to this information applicants for the position were required to have a degree and professional qualification in Library and Information Studies together with relevant academic Library and team experience.
- 2.2** The claimant considered himself qualified for the position and submitted an application. In February, 1996 he was informed that his application had been unsuccessful and he had not been called for an interview. According to the claimant the successful candidate was female.
- 2.3** On 27th June, 1996 the claimant lodged a formal complaint with the Labour Court that he had been discriminated against by D.C.U. because another candidate was given preferential treatment because of her sex, because she held a qualification from

University College Dublin (U.C.D.) and because she was currently employed by D.C.U. The claimant also held that D.C.U. penalised him for having made a previous complaint under the Employment Equality Act, 1977 in relation to a similar position in the Dublin Institute of Technology (D.I.T.). The Labour Court, subsequently, referred the claim to an Equality Officer for investigation and recommendation.

### **3. SUMMARY OF THE CLAIMANT'S CASE**

- 3.1** According to the claimant he applied for the position of Assistant Librarian (Information and Reference Services) in D.C.U. in November, 1995 because he considered that he met the essential requirements as advertised and he had experience relevant to the position. However in February, 1996 the claimant was informed by D.C.U. that his application had been unsuccessful.
- 3.2** The claimant says that, under Section 28 of the Employment Equality Act, 1977, he requested information from D.C.U. on the number of male and female candidates for the position, but D.C.U. refused to provide him with this information. The claimant says that, following his own research, he discovered that the successful candidate was female. He further established that the successful candidate did not have the qualifications that he had nor did she have as much experience relevant to the position.
- 3.3** The claimant states that he applied for a number of positions at D.C.U. between 1991 and 1995. He was not called for interview on any occasion and, in all cases, a female was appointed. The claimant contends that, in the library field in Ireland, there is a gender imbalance of about 75% female and 25% male. This arises

partly from the intake to the postgraduate course at U.C.D. which tends to be restricted to U.C.D. graduates and employees of the local authorities. The claimant says that within D.C.U. the gender balance is 90% female and 10% male in the library service. On this basis females are able to comply with the requirement of working in the library service in D.C.U. by virtue of the fact that there are more females working there. The claimant states that in D.C.U. senior positions are given to males even though one would expect the senior positions to be held by persons from the gender holding 90% of the positions. He states that there is a mental attitude pervading D.C.U. library appointments which treat applicants differently on the basis of their gender i.e. male applicants for the senior positions and female applicants for the junior positions.

- 3.4** The claimant says that, in a Local Appointments Commission interview in April, 1995 Dr. MacDougall asked him why he had not gone to U.C.D. to do the postgraduate course in librarianship. The claimant considers that, by asking this question, the interviewer was indicating that non U.C.D. qualifications are not regarded the same as those from U.C.D. The claimant argues that the essential requirement for the position is a professional qualification and it should not matter whether this professional qualification was obtained from an Irish or European University.
- 3.5** The claimant says that public appointments should not be restricted to employees of the institution concerned and they should not be used as a mechanism for promoting junior staff.
- 3.6** On the basis of the foregoing the claimant contends that he was discriminated against contrary to Section 2(a), 2(c), 2(d) and 3 of the 1977 Act in that a person was

given preferential treatment by virtue of being female, having a qualification from U.C.D. and being an employee of D.C.U. The claimant, further, contends that he was deliberately penalised for having made a complaint under the 1977 Act in relation to his application for a similar position in the Dublin Institute of Technology (D.I.T.).

#### **4. SUMMARY OF THE RESPONDENT'S CASE**

**4.1** The respondent rejects the claim that the claimant was discriminated against contrary to Sections 2(a), 2(c), 2(d) and 3 of the 1977 Employment Equality Act because a person was given preferential treatment by virtue of being female, having a qualification from U.C.D. and being an employee of D.C.U.

**4.2** According to the respondent it advertised the position of Assistant Librarian (Information & Reference Service) in November, 1995. Applicants were invited to contact the Personnel Officer for further information and application form. The information supplied to potential applicants included general information on the Library, a job outline and person specifications (a copy of which are attached in Appendix B). The respondent says that the person specification required candidates for the post to have a degree and professional qualification in Library and Information Studies together with "relevant academic Library and team experience". A shortlist was drawn up taking account of the essential qualifications set out in the person specification. The shortlist was then vetted by the Personnel Office to ensure that all candidates were treated equally.

**4.3** The respondent makes a number of points about the issues raised by the claimant in his submission as follows:

- The respondent says that, as an employer, it is not required under Section 28 of the Employment Equality Act, 1977 to provide information on numbers of male and female applicants for the post. It is, however, required to inform an applicant as to the reason why he/she was not appointed to the vacant position but this information was not requested by the claimant.
- The job description and person specification sent to all applicants states that a degree of professional qualification in Library and Information Studies together with relevant academic library experience were required. The respondent says that the successful candidate has the required academic qualifications and sixteen years academic library experience whereas the claimant has a total of 18 weeks library experience of which only 4 weeks were in an academic library.
- The 1977 Act is only concerned with discrimination on the grounds of sex and marital status. The issues raised by the claimant in relation to qualification from U.C.D. and being an employee of D.C.U. are not, according to the respondent, relevant to this claim.
- The respondent states that the allegation by the claimant that he was discriminated against under Section 2(d) of the 1977 Act for having made a previous complaint against the Dublin Institute of Technology is not relevant to this claim as this previous complaint has nothing to do with D.C.U. According to the respondent the only claim which the Equality Officer can investigate is that which has been referred by the Labour Court of an alleged discriminatory act which took place on 21st February, 1996.
- The respondent argues that the gender balance in D.C.U. is irrelevant to the claim. The claimant is obliged to substantiate the allegation he made that he was discriminated against on the grounds of his sex. The respondent says that the implication of his argument is that because he is male he should have been given the position in preference to

a female so as to address the male/female imbalance which exists in the Library Service within D.C.U. The respondent contends that this would be positive discrimination and would, therefore, be in breach of the 1977 Act.

4.4 The respondent states that the claimant's application form was incomplete and left many unexplained gaps. The respondent submitted a list, in chronological order, of what the claimant stated he was doing since 1971. This is attached as Appendix C. The respondent points out what appears to be a conflict in relation to 1983 in which he says that he was working in the UK Civil Service and at the same time studying for a Master of Arts in T.C.D.

4.5 The respondent states that the claimant has very limited library experience with only one month in T.C.D. and three months in Dublin Corporation. In this regard the respondent submitted a list (attached as Appendix D) of all the applicants who were shortlisted for interview. It shows that these applicants have considerably more library experience than the claimant.

## 5. CONCLUSIONS OF THE EQUALITY OFFICER

5.1 The case before me is that Dublin City University is alleged to have discriminated against Mr. Jeremiah Murphy on 21st February, 1996 in terms of Section 2(a), Section 2(c) and Section 2(d) of the Employment Equality Act, 1977 when it did not appoint him to a position of Assistant Librarian (Information and Reference Services). In making a recommendation in this case I have taken into account all of the submissions made to me by the parties.

- 5.2 The claimant has alleged that he was both directly and indirectly discriminated against on the basis of his sex when he was not appointed to the position of Assistant Librarian (Information and Reference Services) by D.C.U. He also alleges that he was penalised for having already taken a complaint under the 1977 Act against the Dublin Institute of Technology.
- 5.3 The person specification supplied to all applicants by the respondent indicates that the person sought should have a degree and professional qualification in Library and Information studies and should also have relevant academic and library experience. These were the criteria used by the respondent in shortlisting applicants for interview. From the information available to me it is evident that the applicants who were shortlisted for interview met the criteria set out in the person specification. The claimant did not meet these requirements and was therefore not shortlisted for interview. I note that these criteria applied to all applicants irrespective of their sex. I am therefore satisfied that the decision not to shortlist the claimant for interview was unrelated to his sex.
- 5.4 I note that the claimant contends that the respondent deliberately penalised him under Section 2(d) of the 1977 Act for having made a complaint in relation to his application for a similar position in the Dublin Institute of Technology. However there was no evidence available to me to substantiate this allegation.
- 5.5 The claimant, in his submission, says that the respondent discriminated against him inasmuch as a person was given preferential treatment by virtue of having a qualification from U.C.D. and also by being an

employee of D.C.U. While I note that the respondent said that two of the applicants who were shortlisted for interview did not have qualifications from U.C.D. (i.e. the details set out in Appendix D refers) I am satisfied that this issue is unrelated to sex. Furthermore the issue of being an employee of D.C.U. is irrelevant to this claim as both males and females can be employees of D.C.U.

**6. RECOMMENDATION**

- 6.1** In view of my conclusions above, I find that Dublin City University did not discriminate against Mr. Jeremiah Murphy on the basis of his sex within the meaning of Section 2(a), Section 2(c) and Section 2(d) of the Employment Equality Act, 1977.

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Gerardine Coyle  
Equality Officer

22nd August, 1997



**APPENDIX A**

Copy of the Advertisement

**APPENDIX B**

Copy of the information  
that was supplied to  
potential candidates

**APPENDIX C**

List of what the claimant  
has been doing since  
1971

**APPENDIX D**

Details of the applicants  
who were  
shortlisted