

**OFFICE OF THE DIRECTOR OF
EQUALITY INVESTIGATIONS**

EMPLOYMENT EQUALITY ACT, 1977

EQUALITY OFFICER'S RECOMMENDATION NO: DEC-E-2000/11

PARTIES

**Ms Celine Seoighe
(Represented by William Semple & Co., Solicitors)**

AND

**Comhar Caomhán
(Represented by M G Ryan & Co., Solicitors)**

File No: EE 54/1998

1. DISPUTE

- 1.1 The dispute concerns a claim by Ms Celine Seoighe that in May, 1998 Comhar Caomhán, Inis Oirr discriminated against her within the meaning of Section 2(a) of the Employment Equality Act, 1977 and in contravention of Section 3 of that Act when she was turned down for the position of General Manager.

2. BACKGROUND

- 2.1 Comhar Caomhán is a community run co-operative based in Inis Oirr among the Aran Islands. Comhar Caomhán publicly advertised a competition to appoint a Manager in August and November 1997. The Claimant was the only person to apply on foot of these advertisements and Comhar Caomhán re-advertised the position on 25th January, 1998. The Claimant underwent an interview on 16th April, 1998 and at that time was still the only candidate. She was informed on 7th May, 1998 that she had been unsuccessful in her application. Following the further re-advertisement of the position on 21st May, 1998 four more candidates, all of whom were male, were interviewed. One of the male candidates was subsequently appointed. It is the Claimant's contention that the reason why she was not appointed was that she was a woman.
- 2.2 The Claimant referred a complaint to the Labour Court in November, 1998. The claim was subsequently referred by the Labour Court to an Equality Officer for investigation and recommendation. Submissions were received from both parties and a joint hearing

of the complaint was held on 20th August, 1999. Further correspondence in the case between the Equality Officer and the parties took place subsequent to the hearing.

3. SUMMARY OF THE CLAIMANT'S CASE

3.1 It is the Claimant's case that the Respondents, Comhar Caomhán discriminated against her in terms of Section 2(a) of the Employment Equality Act, 1977.

Section 2(a) states that discrimination shall be taken to occur

'where by reason of his sex a person is treated less favourably than a person of the other sex'

3.2 Comhar Caomhán first advertised a competition to appoint a Manager on 10 August, 1997. The Claimant supplied a copy of the advertisement which appeared in the Irish language publication Foinse and this is included at Appendix 1. The Claimant submitted an application on 5 January, 1998 and at the time was the only applicant. The Claimant states that she was advised that the position was to be re-advertised and that her application would be considered along with those of any other applicants. The position was re-advertised on 25th January, 1998 with a closing date of 13th February, 1998. The Claimant was still the only candidate when she was interviewed on 16th April, 1998.

3.3 In her submission to the Equality Officer, the Claimant outlined her educational and

career background and furnished a copy of her C.V. to the Equality Officer. She holds a B.A. degree in Sociology & Politics and History. She served on the Social Services Board in Galway city and was trained as a group facilitator with the Western Health Board. She was involved with the establishment and running of the Inis Oirr branch of a credit union, is active in the I.C.A., the youth club and Old Folks Party. She completed the diploma in the practice of Rural Development in the Gaeltacht in 1997.

- 3.4 The Claimant raises a number of issues in relation to her interview which she believes are indicative of the Respondent's intention to discriminate against her because she was a woman. She was required to travel to the mainland headquarters of Údarás na Gaeltachta in Furbo for her interview whereas the male candidates were later interviewed on Inis Oirr. When she asked at interview for details of the salary attached to the post she was told that the interview board had not discussed the question of salary. As she was the only candidate to be interviewed on that date she felt that this indicated a lack of intention on the part of the interview board to take her candidature seriously. The Claimant states that she was not questioned about her extensive experience at community building. The Claimant questions the competence of the interview board members to carry out interviews and states that a panel of trained interviewers (which did not include her interviewers) was available.

- 3.5 While the Claimant acknowledged that she did not have practical experience of running

a co-op, she states that she had several years of experience of dealing with the local people at many levels and had gained additional insights at the diploma course. She understood that a management company which had been retained by Comhar Caomhán to provide a temporary management service would continue to provide support to the new appointee until the end of April, 1998.

- 3.6 The Claimant states that she spoke to the Chairperson of the Committee on 28th April, 1998 and that she was told that there were two more candidates, both male, to be interviewed. At that point she queried why applications were accepted after the closing date of 13th February, 1998. The Claimant states that at the AGM of Comhar Caomhán that evening in the local public hall the Chairperson of the Management Committee stated that one person had been interviewed i.e. the Claimant, and that two more candidates were to be interviewed. She states that the acting manager stated that he was very disappointed with the calibre of the candidates so far. As the Claimant had not yet been informed of the outcome of her interview she found this a humiliating and degrading experience. She was subsequently notified on 7th May 1998 that she was unsuccessful in her application. In response to a written request from the Claimant as to what criteria were used in reaching that decision, the Chairperson of the Committee wrote to her stating that the Committee was looking for someone with a wide experience of co-op management in the Gaeltacht. The post was re-advertised on 21st May, 1998 and four male candidates, including the appointee, were subsequently

interviewed on Inis Oirr. The Claimant accepts that the appointee had a number of years experience of managing a co-op in a Gaeltacht island however draws attention to the fact that unlike herself, he had not completed the diploma in Rural Development although he did so shortly afterwards.

3.7 In further support of her claim that Comhar Caomhán discriminates against women, the Claimant draws attention to an Irish language recruitment notice posted in the co-op's window on 11th August, 1998 stating that the co-op was looking for 'workmen' and a 'foreman' to undertake a programme of work such as road repairs, renovating a factory and building offices for the co-op.

3.8 The Claimant included in her submission a list of ten vacancies which arose on Inis Oirr in the period July, 1997 to July, 1998. Five of the posts were with Comhar Caomhán and the Claimant was appointed to one of them i.e. a secretarial post, for a short period. The Claimant was not appointed to any of the other five posts which were unconnected with Comhar Caomhán. The Claimant highlights the fact that although she was resident on the island and believes she had the necessary skills for the various positions, many of the positions were not advertised locally and applicants from outside the island were appointed.

4. SUMMARY OF RESPONDENT'S CASE

- 4.1 The Respondent states that Comhar Caomhán Teo is a community based co-operative and that the Management Committee is elected annually by the shareholders i.e. the island community and in that way is representative of the community from which it springs. In the last ten years there have been more female members on the Management Committee than males. The Co-operative rejects the Claimant's allegation that it discriminated against her when it did not offer her the Manager position following her interview on 16th April, 1998.
- 4.2 At the time of the Claimant's application she was the only applicant for the manager position and the Respondent states that there was no obligation on the Co-operative to offer the position to the Claimant if they believed that she was not suitable. The Respondent states that the reason why the Claimant was not offered the position was that Comhar Caomhán was looking for a manager with wide experience of managing a Gaeltacht co-operative. It was the view of the Committee that the Claimant did not have the required experience and the post was re-advertised on 21st May, 1998.
- 4.3 The Respondent rejects the Claimant's view that her application was not taken seriously and states that she had a lengthy interview at which she had every opportunity to demonstrate her experience in community development. The Respondent states that the interview board was not authorised to discuss salary or conditions of employment

attached to the manager post. The Claimant stated that she understood that the temporary management company would remain in place for some time as a support to the newly appointed manager and that this support would make up for her own lack of managerial experience. The Respondent states however that it was widely known throughout the island that the management company's contract was to expire the week after the interview and that it is amazed that the Claimant was not aware of this fact. The Respondent states that members of the interview board are certain that there was no discussion at interview about managerial support for the appointee. The sole purpose of the interview was to find a suitable manager to take over from the temporary arrangement.

- 4.4 The Respondent states that the interview board was made up of the then Chairperson of the Management Committee of Comhar Caomhán who is a woman, a male member of the Management Committee and an officer from Údarás na Gaeltachta who has wide experience of voluntary groups, community development in Gaeltacht areas and recommending appointments to fulfil specific functions. Comhar Caomhán is satisfied that there was a wide range of experience on the interview board and the Management Committee accepted its recommendation. The Respondent rejects the Claimant's assertion that the interview board was not competent to carry out its task and adds that the Claimant's derogatory remarks about the members of the interview board shows disrespect for the very people she aspired to working with. In relation to the fact that

the Claimant had to travel to Furbo for her interview, the Respondent states that Údarás na Gaeltachta finance and advise Comhar Caomhán and that the Údarás regional representative who deals with the co-operative was unable to travel to the island due to work commitments and that the Committee decided that it would be appropriate to hold the interview at Furbo. The Respondent states that this is further evidence that Comhar Caomhán were treating the Claimant's application seriously.

4.5 In relation to the advertisement for 'workmen' and a 'foreman', the newly appointed manager stated that he had written the advertisement and that the posts were open to men and women. He states that he misunderstood the Irish version of the terms used and that as soon as the mistake was pointed out to him he had the notice rectified and states that the offending notice was on display for no longer than half a day.

4.6 The Respondent reiterates their position that the reason the Claimant was not appointed was that she did not have the necessary management experience and that the decision was unconnected with her gender. The Respondent also states that the diploma course in rural development attended by the Claimant (and later completed by the appointee) was not relevant to the issue of management experience. In correspondence subsequent to the hearing the Claimant's representative took issue with the fact that the appointee did not hold his diploma at the time of his interview. The Respondent states however that the appointee had successfully completed all of his examinations for the

diploma at the time of his interview with the exception of a report which he completed shortly afterwards. The Respondent states that in her submission to the Equality Officer the Claimant outlined what she regarded as the manager's principal functions and included as one of those functions the publication of a newsletter every two months. The Respondent regards her description of the manager's functions as simplistic and derisory and suggests a lack of awareness of the wide range of development activities carried out by the co-operative in its thirty years of existence i.e. the provision of an electricity service, air service, secondary school, camping site, harbour development, daily ferry service, a football field, handball alley, thatched houses and construction and repair of roads.

5. CONCLUSIONS OF THE EQUALITY OFFICER

- 5.1 The matter for consideration is whether or not Comhar Caomhán discriminated against the Claimant on the basis of her sex in terms of Section 2(a) of the Employment Equality Act, 1977 and contrary to the provisions of Section 3 of that Act. In making my recommendation in this case I have taken into account all of the evidence, both written and oral, made to me by the parties to the case.
- 5.2 The principal question to be addressed is whether or not Comhar Caomhán conducted the competition in a manner which was fair and objective and free from any form of gender based bias. The Claimant pointed out that the closing date for applications given

in the advertisement of 25th January, 1998 was 13th February, 1998. She questions why two further applications (from male applicants) were accepted after this date. I note however that the Claimant's application was accepted on 5 January, 1998 when the closing date given in the initial advertisement of 10 August, 1997 was more than four months earlier on 20 August, 1997. On that occasion the Claimant was the only applicant and by the new closing date of 13th February, 1998 she was still the only applicant. I am satisfied from the evidence that there was no discriminatory intent on the part of Comhar Caomhán in its attempts to broaden the candidature base and to find candidates with the required experience when it accepted applications for the manager post after closing dates in the various advertisements had expired.

- 5.3 At the time of her interview, the Claimant was the only applicant for the manager position. The Claimant accepts that she did not have experience of managing a community based co-operative although she feels that this should not be a disadvantage as she understood that certain supports would be in place for the new appointee. The Respondent makes the case that no such supports would be in place, that the appointee would be expected to take up the running of the co-operative and that prior management experience was an essential requirement for the appointee. I accept the Respondent's arguments that prior experience was a valid requirement, that the Claimant did not possess the required experience and conclude therefore that Comhar Caomhán did not discriminate against the Claimant when it found her to be unsuitable

for the position of manager. I note that the Claimant states that she took a secretarial post at the co-operative even though she was applying for the manager position as she felt that her lack of managerial experience might militate against her application.

5.4 Comhar Caomhán re-advertised the manager position on 21st May, 1998. Four applicants, all of whom were male, were interviewed following this advertisement. The Respondent has demonstrated and I accept that the person appointed on foot of these interviews had experience of managing a community based co-operative in a Gaeltacht island community. I accept therefore that the Respondent's earlier rejection of the Claimant's application so that Comhar Caomhán could continue to look for someone with the necessary experience was warranted.

5.5 At the hearing the Claimant's representative queried why a different interview board interviewed the male candidates. I accept the Respondent's argument that following the annual general meeting of Comhar Caomhán on 28th April, 1998 new officers were elected to the Management Committee and that as a consequence the make-up of any further interview boards arising from the re-advertising of the vacancy would change. The Claimant also questioned the fact that she had to travel to the mainland for her interview. However the Respondent has explained why the interview was held at Furbo (see paragraph 4.4 above) and that two members of the interview board themselves had to travel also. I am satisfied that there was no intention to discriminate against the

Claimant on account of her gender by holding her interview at Furbo.

5.6 I referred at paragraph 3.8 above to a list of ten positions which arose on Inis Oirr in the period July, 1997 to July, 1998 which the Claimant included in her submission and in which she was interested. The Claimant served in one of those positions i.e. a secretarial position with Comhar Caomhán, for a short period. Five of the positions were unconnected with Comhar Caomhán. I put it to the Claimant at the hearing that she was using the current proceedings to make a wider point about how difficult it was for somebody with her qualifications and background to get permanent employment on the island and she accepted that this was the case. I cannot accept however that Comhar Caomhán is responsible for the Claimant's difficulties in this regard or that there is any evidence in all of this to suggest that Comhar Caomhán is biased against female employees.

5.7 The Claimant's representative argued that the Equality Officer should have access to the Respondent's interview records for the various interviews while the Respondent argued that for reasons of confidentiality it was not prepared to release them. In cases where there is strong evidence that a claimant was as well if not better qualified for a position than the appointee I would consider that the absence of interview notes showing objective reasons for the appointee's placing ahead of the claimant would give rise to an inference of discrimination. In the present case I am however satisfied that the

Claimant did not have the required experience for the position whereas the appointee had the necessary experience. The appointee was also appointed from a later competition with a different interview board. I did not consider it necessary therefore to examine the interview records.

6. RECOMMENDATION

- 6.1 On the basis of the foregoing, I find that Comhar Caomhán did not discriminate against Ms Celine Seoighe on the basis of her sex in terms of Section 2(a) and in contravention of the provisions of Section 3 of the Employment Equality Act, 1977.

Raymund Walsh

Equality Officer

12 December, 2000

APPENDIX 1

ADVERTISEMENT FOR THE POSITION OF MANAGER
OF COMHAR CAOMHÁN