

Federal Court



Cour fédérale

Date: 20260506

Docket: T-1182-23

Citation: 2026 FC 605

Ottawa, Ontario, May 6, 2026

PRESENT: The Honourable Madam Justice Furlanetto

BETWEEN:

ADEEB AHMED

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of a May 8, 2023 decision [Decision] of the Canada Revenue Agency [CRA] that rendered the Applicant's request for Individual Feedback [IF] regarding a staffing decision ineligible. The Applicant asserts that the manner of arriving at the Decision was procedurally unfair and that the Decision itself was unreasonable.

[2] For the reasons set out below, the application is dismissed.

I. **Background**

A. *Policy framework*

[3] The CRA is established and governed by the *Canada Revenue Agency Act*, SC 1999, c 17 [CRAA]. As a designated separate agency under Schedule V of the *Financial Administration Act*, RSC 1985, c F-11 at Part V, the CRA is its own employer with its own appointment authority.

[4] Subsection 54(1) of the CRAA provides the CRA with the authority and obligation to establish a program to govern staffing:

54 (1) The Agency must develop a program governing staffing, including the appointment of, and recourse for, employees.

54 (1) L'Agence élabore un programme de dotation en personnel régissant notamment les nominations et les recours offerts aux employés.

[5] Pursuant to subsection 54(1), the CRA developed the *Policy on the Staffing Program* [Staffing Policy] and *Procedures for Staffing (Staffing Program)* [Staffing Procedures Policy] which outline the CRA's staffing processes, including those relating to the appointment of candidates to acting positions.

[6] The *Procedures for Recourse on Staffing (Staffing Program)* [Recourse Policy] is a separate policy relating to the recourse available to employees who are dissatisfied with a staffing decision.

[7] Recourse is intended “to address an employee’s concerns of arbitrary treatment as a result of a staffing decision or voluntary assessment” (Recourse Policy, section 4.2, version 2.0, dated June 12, 2019). “Arbitrary” is defined in the Recourse Policy as:

In an unreasonable manner, done capriciously; not done or acting according to reason or judgment; not based on rationale or established policy; not the result of a reasoning applied to relevant considerations; discriminatory, that is, as listed as the prohibited grounds of discrimination in the Canadian Human Rights Act.

[8] Where an acting appointment, with extensions, is made for six months or more, the recourse available to an eligible employee is IF, followed by decision-review [DR].

[9] IF is described in the Recourse Policy as “a review of the employee’s concerns of arbitrary treatment.”

B. Background relating to the Applicant

[10] On September 16, 2021, Sean Foley [Appointee] was appointed acting manager of a team within the CRA’s Audit Division. The appointment ran retroactively from September 13, 2021 to March 11, 2022.

[11] In February 2021, the CRA extended the Appointee’s acting appointment from March 11, 2022 to July 12, 2022. Because the acting appointment was now over 6 months when this extension occurred, the CRA sent a recourse notification to employees of the Legislative Policy and Regulatory Affairs Branch [LPRAB] (which included the Applicant), indicating that it intended to proceed with a staffing action. The notice set out the employee options for recourse, including IF, followed by DR.

[12] In June 2022, the CRA extended the Appointee's appointment a second time, from July 12, 2022 to September 13, 2022 and sent another recourse notification to LPRAB employees, including the Applicant.

[13] The CRA extended the Appointee's acting appointment a third time, from September 14, 2022 to September 30, 2022, and again sent a recourse notification to LPRAB employees. The Applicant submitted a request for IF regarding this staffing action on November 4, 2022. The Applicant's request for IF stated the following:

I request feedback on not selecting me for the MG-05 position and to understand the reasons for the Hiring Manager's decision.

Please provide the complete file and all records in possession of the Hiring Manager that is relevant to this staffing decision, including but not limited to staffing action rationale, emails, letters, memos and any other documents considered by the Hiring Manager.

Subject to 5.5.4. of the Procedures for Recourse, I request accommodation during the IF.

[14] The Hiring Manager acknowledged the Applicant's request for IF in writing on November 9, 2022 and connected the Applicant with an Accommodation Advisor to discuss any accommodations he would require throughout the process.

[15] On November 23, 2022, the Director General wrote the Applicant, advising that it would not be possible to finalize his IF within the prescribed timeline due to the ongoing accommodation request and the Hiring Manager's absence from the office. The Director General indicated that the CRA would resolve the IF within 30 days from the date the accommodation measures were determined and accepted.

[16] On December 14, 2022, the Accommodation Advisor provided a list of recommended accommodations for the Applicant's participation in the IF process. The Applicant did not raise any issues with the recommended accommodations.

[17] On December 19, 2022, the Hiring Manager advised the Applicant it would not be possible to complete the IF process within 30 days of the determination and acceptance of accommodation measures due to her upcoming leave from the office. She indicated that the CRA would endeavour to resolve the IF by February 27, 2023 and that she would share documentation requested by the Applicant as soon as she was able.

[18] On February 13, 2023, the Hiring Manager provided the Applicant with documents in response to his disclosure request. The Hiring Manager also advised that it was her intention to conduct the IF in writing as per section 5.9.4 of the Recourse Policy, because she could not be accompanied by a third party during the IF and she had concerns in view of recent correspondence and past interactions between her and the Applicant.

[19] On March 8, 2023, the Applicant sent the Hiring Manager several requests via email. These requests included that the IF occur in-person, that further disclosure be provided, that some of the disclosure already provided be shared in a different digital format, and that the Applicant be given additional time to particularize his concerns of arbitrary treatment.

[20] On March 27, 2023, the Hiring Manager responded by confirming that the IF would proceed in writing as the format would allow for "thorough and well thought out feedback

throughout the process” and would address the Applicant’s accommodation for sufficient time. The response requested the Applicant “identify [his] feelings of arbitrary treatment by April 11, 2023, otherwise in accordance with the Procedures for Recourse on Staffing, in the absence of any identified arbitrary treatment this IF cannot proceed”.

[21] On April 11, 2023, the Applicant requested an extension until April 18, 2023 to submit his concerns of arbitrary treatment. An extension was provided until April 21, 2023.

[22] The Applicant sent further correspondence to the Hiring Manager on April 20, 2023, raising his disagreement with several issues, including that the Applicant be required to identify his concerns of arbitrary treatment before his proposed IF meeting.

[23] On May 8, 2023, the Hiring Manger advised the Applicant that his request for IF had been deemed ineligible and could not proceed because no arbitrary treatment has been identified. In the section of the IF form marked “response to employee’s concerns,” the Hiring Manager wrote:

The initial request for Individual Feedback (IF) was submitted without identified allegations of arbitrary treatment. The employee was given the opportunity to identify/clarify their concerns of arbitrary treatment on multiple occasions (emails dated: February 13, 2023 (disclosure of documents as per your request), February 28th, 2023, March 27th, 2023, and an extension to provide a response dated April 13th, 2023).

On the deadline of April 21st, 2023, the employee submitted a response that did not contain any allegations of arbitrary treatment related to the staffing action in question.

As such, in accordance with the CRA’s Procedures for Recourse on Staffing, in the absence of any allegations of arbitrary treatment

having been identified by the employee this request for IF is ineligible and is not proceeding.

II. Issues and Standard of Review

[24] There are two issues raised by this application:

- A. Was the IF process procedurally fair?
- B. Did the CRA err by rendering the Applicant's request ineligible for IF?

[25] For procedural fairness, the Court must determine whether the procedure was fair having regard to the circumstances. The ultimate question is whether the applicant knew the case they had to meet and had a full and fair chance to respond: *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 54-55.

[26] The standard of review for the merits of a decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. A reasonable decision is one that is “based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker”: *Vavilov* at para 85. A decision will be reasonable if when read as a whole and in the context of its administrative setting, it bears the hallmarks of justification, transparency, and intelligibility: *Vavilov* at para 99.

III. Preliminary Issues

[27] As a preliminary matter, the Respondent argues that certain portions of the affidavit filed by the Applicant in support of this proceeding (paragraphs 7-11, 13-16, 18, 20-21, 26-47, 50-52, 54-56, 57-59 and Exhibits A to E) [Impugned Paragraphs and Exhibits] should be struck because they refer to information that was not before the decision-maker and relate to other processes and decisions, rather than the decision under review.

[28] With the exception of paragraphs 8, 16, 18, 57, 58 and Exhibit E of the affidavit, I agree with the Respondent, the remainder of the Impugned Paragraphs and Exhibits should be struck.

[29] It is important to emphasize that this is not an action, but rather an application for judicial review. The issue before the Court is a narrow one and relates only to the reasonableness of the Decision to render the IF ineligible and the procedural fairness of the process involving the Applicant's November 4, 2022 IF request. The Court is not permitted to engage in a fact-finding exercise to determine the appropriateness of the Appointee's appointment to his acting role or the appropriateness of the Appointee's third extension: *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [*Access Copyright*] at para 19. Nor is the Court tasked with conducting an overhaul of CRA's broader staffing policies.

[30] With limited exceptions, the evidentiary record that the Court must consider is restricted only to those documents that were before the decision-maker when making the decision under review: *Access Copyright* at paras 19-20; *Tsleil-Waututh Nation v Canada (Attorney General)*,

2017 FCA 128 [*Tsliel-Waututh*] at para 86. The limited exceptions include: a) general background that may assist in understanding the issues relevant to the judicial review; b) documents that bring procedural defects that cannot be found in the evidentiary record of the administrative decision-maker to the court's attention; and c) evidence that highlights the complete absence of evidence before a decision-maker when it made a particular finding: *Access Copyright* at para 20; *Tsliel-Waututh* at para 98.

[31] Paragraphs 7, 9-11, 13-15, 20, 21, 26-47, 50-52, 54-56, 59 and Exhibits A-D do not fit into any of these exceptions:

- a) Paragraphs 7, 9-11, 50, 51 and Exhibits A and D of the affidavit refer to the Applicant's interest in applying for past managerial positions. In my view, these portions of the affidavit relate to the merits of the Appointee's appointment and not to the issues before the Court on this judicial review. They do not serve as permissible background: *Access Copyright* at para 20.
- b) Paragraphs 13-15, 26-45, 54-56, 59 and Exhibits B and C relate to a different staffing decision and a different IF request that is admittedly the subject of separate proceedings before the Court. The details of these separate proceedings are neither before the Court nor the proper subject-matter for this judicial review.
- c) Paragraphs 20-21, 46-47, 52 provide details regarding the restructuring of the Audit Division and CRA personnel that are not relevant nor of assistance to the Court for determining the issues in this judicial review.

[32] Accordingly, paragraphs 7, 9-11, 13-15, 20, 21, 26-47, 50-52, 54-56, 59 and Exhibits A-D shall be struck from the Applicant's affidavit.

[33] Paragraphs 8, 16 and 18 provide background facts involving the Appointee, which I will permit.

[34] At paragraphs 57, 58 and Exhibit E, the Applicant refers to additional communications relating to "Non-Advertised Staffing" that he describes as "policies" published by the CRA. He asserts that this bundle of documents should have been, but were not, included in the Certified Tribunal Record [CTR]. The Applicant contends the documents are relevant to the issue of procedural fairness. As set out further below, I do not consider these documents to be determinative. However, I will permit the documents to remain in the affidavit under exceptions b) and c) of *Access Copyright*.

[35] As to any alleged deficiency in the CTR, this has not been established. There was no allegation that the CTR was deficient when it was produced. The reason for arguing this now appears to be that the documents at Exhibit E were allegedly produced as part of the CTR in the other Court proceedings involving the Applicant. However, as these proceedings involve different decisions, this fact alone is insufficient to satisfy the Applicant's burden of demonstrating a deficient or incomplete CTR for this matter. Without evidence to establish that the documents were withheld, the guiding presumption is that a complete CTR has been provided: *Togtokh v Canada (Citizenship and Immigration)*, 2018 FC 581 at para 16; *Ogbuchi v Canada (Citizenship and Immigration)*, 2016 FC 764 at para 18.

[36] The Respondent additionally submits that the version of the Recourse Policy attached as Appendix A to the Applicant's Memorandum of Fact and Law (Version 3.0, dated September 30, 2022) should be struck as it is a later version of the Recourse Policy which does not apply to the facts here. Version 3.0 states that it applies to "all staffing started on or after September 30, 2022", whereas the Recourse Policy included in the CTR (Version 2.0, dated June 17, 2019) states that it refers to "all staffing started on or after June 17, 2019". In this case, the Appointee's initial acting appointment was made on September 16, 2021. Thus, even though the recourse relating to the third extension of the Appointee's acting appointment was dealt with after Version 3.0 of the policy was implemented, it refers to a staffing action that started before September 30, 2022. Version 2.0 of the Recourse Policy therefore applies. As Appendix A is not relevant to the Decision, it shall also be struck from the evidentiary record.

[37] As a further preliminary matter, the Applicant takes issue with the record filed by the Respondent in this proceeding. In particular, he notes the absence of any evidence filed by the Respondent. He argues that this is improper as it negated any opportunity for cross-examination of relevant CRA personnel.

[38] There is no obligation requiring a respondent to file evidence on judicial review. Rule 307 of the *Federal Courts Rules*, SOR/98-106 is permissive not mandatory. As already noted, the evidence before the Court, with limited exceptions, is restricted to the record that was before the decision-maker. Where the entire CTR is already filed in the applicant's record as it is here, there is no negative inference to be drawn because the Respondent did not file evidence.

IV. Analysis

A. *Was the IF process procedurally fair?*

[39] The Applicant raises five arguments relating to procedural fairness. First, he argues the employer breached its own policies when documenting the staffing action and notifying candidates as to their right to recourse. Second, he argues the IF should not have been converted to a process in writing. Third, he argues the Hiring Manager was not the right person to handle the Applicant's IF request, such that the process was conducted in bad faith and with bias. Fourth, he takes issues with the sufficiency of the disclosure provided during the process. Fifth, he asserts the CRA did not adhere to the recommended accommodation measures and violated the Recourse Policy by refusing to participate in Informal Conflict Resolution [ICR].

[40] In my view, none of these arguments can succeed.

[41] I note that this Court has previously recognized that DR falls in “the middle to lower end of the spectrum of procedural fairness” following an application of the relevant factors in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC): *NG v Canada (Attorney General)*, 2008 FC 1298 [NG] at paras 29-31. While acknowledging that IF is a more informal process and a precursor to DR, this Court's previous assessment of the appropriate level of procedural fairness in *NG* will serve as a guide to my assessment of the procedural fairness issues raised on this application.

(1) Documenting and notification of the staffing action

[42] The Applicant asserts that the CRA breached its own procedures by failing to complete a “staffing action rationale” to explain their principles-based staffing decision and failing to notify employees about their right to recourse within a certain timeframe. The Applicant relies on the communications relating to “Non-Advertised Staffing” that he attaches as Exhibit E to his affidavit. This information includes a “file checklist” for managers when making appointments for non-advertised staffing positions. The Applicant states that these materials require managers to provide a “staffing action rationale” and to communicate staffing decisions to teams before the effective date of appointment for recourse. He contends that the recourse notification for this staffing action was not provided in accordance with these requirements.

[43] The source and details relating to the bundle of documents the Applicant relies upon are unknown. Certain of these documents are not policy and appear to be general guidance documents.

[44] The document checklist that the Applicant points to states only that a staffing action rationale form “may be used” to capture the reasons for the staffing decision. The checklist does not indicate that completing this form is a requirement.

[45] As noted by the Respondent, there is no requirement in the Staffing Policy, Staffing Procedures Policy, or Recourse Policy that requires managers to maintain a staffing action rationale form for all appointments. The Recourse Policy states that managers “must be able to explain their principles-based staffing decisions” but allows for discretion as to how they wish to

do this. The staffing action rationale is one option to assist managers in explaining decisions, but it is not required in every case.

[46] In any event, the Hiring Manager did prepare a “staffing action rationale” prior to the Appointee’s second acting extension. The Applicant received this document in response to his initial documentary disclosure request. The Respondent also produced a memorandum explaining a second language exception request that was required for the third acting extension. The Applicant has not established that the Hiring Manager acted contrary to her duties.

[47] As to the issue of timing, the Recourse Policy requires that “employees be informed in writing of the recourse available” and sets out what the notification must include, but it does not provide a deadline for sending the notification.

[48] As the record indicates, the Applicant was notified about the extension of the Appointee’s acting term. The notification included details regarding how an interested employee could seek IF. Indeed, the Applicant engaged the IF process relating to the third extension of the Appointee’s acting appointment.

[49] As the Applicant was provided with the notification and had an opportunity to request IF, there is no breach of procedural fairness on this basis.

(2) Format for the IF

[50] The Applicant asserts that it was improper to shift the format for the IF to writing, as this was contrary to the Applicant's preference and inconsistent with the accommodations in place. He asserts that if the Hiring Manager wished to conduct the IF in writing, this should have been communicated at the beginning of the process. The Applicant contends that the shift in format constituted bad faith and reflected a "lack of intent to adhere to the accommodation arrangement", which was discriminatory under the protected grounds of disability.

[51] I do not agree that procedural unfairness has been established nor that there can be any allegation of discrimination now advanced through this judicial review.

[52] The Recourse Policy indicates that an IF can take place either verbally or in writing: Recourse Policy, s 5.9.4.

[53] While the recommended accommodations anticipated a proposed "IF session", the accommodations did not restrict the IF from being conducted in writing. The recommended accommodations stated as follows:

1. The employee will have a third-party present for all written and oral communication, and meetings regarding the Individual Feedback session.
 - (i) Third party to be chosen by the employee.
2. IF meeting requests must clearly state the topic of the meeting. Meetings to be scheduled with a minimum of 7 calendar days' notice to the employee. The manager must be flexible in the timeline that is presented. However, all parties involved are required to participate in good faith.

3. Hiring manager to be responsive to requests for information/records in a timely manner and acknowledge such request within 2 business days.
4. Requests for records/information is made available to the employee at least one week prior to the IF session.
5. IF to be conducted in presence of the third party who will:
 - (i) take notes during the IF session.
 - (ii) propose a recess or rescheduling of the IF session should they notice that interactions/discussions become strained.

[54] Starting on November 4, 2022, the Hiring Manager and the Applicant had various exchanges involving requests for disclosure, among other issues.

[55] On February 13, 2023, the Hiring Manager advised the Applicant of their intention to proceed with the IF in writing as per the Recourse Policy. The explanation for doing so was in part based on concerns arising from a January 17, 2023 communication from the Applicant. The Hiring Manager confirmed that the accommodation measures recommended would continue to apply in this format:

My intent is to communicate with you and conduct the IF in writing (as per 5.9.4 of the Procedures for recourse) Procedures for recourse on staffing (Staffing Program) (dce-eir.net)

[...]

I would prefer that we have our interactions in writing as I cannot be accompanied by a third party, and I have concerns after I read your email dated January 17, 2023, regarding our past interactions.

The fact that I would like to conduct the IF in writing does not indicate that I do not want to respect the accommodation measures recommended [...]

[56] On February 28, 2023, the Hiring Manager reaffirmed their intention to conduct the IF in writing and asked for feedback from the Applicant regarding the proposed format:

The concerns I raised in the January 17, 2023, email, are indeed separate from the recourse process; however, they were serious concerns to raise, and I would like to avoid any such sentiments carrying over into this IF. I had hoped that by doing the recourse in writing, it would prevent any further such concerns, at least where this recourse file is concerned. It will also ensure that the entirety of our exchanges for this IF is documented.

I would like to proceed with the recourse in writing; however, I also recognize that the recourse is a collaborative process, and if moving forward with the recourse in writing is not something you would like to do, please let me know as soon as possible.

[57] In further correspondence on March 27, 2023 the Hiring Manager acknowledged the Applicant's preference to have the IF conducted verbally but maintained her decision that it would be more effective and suitable to proceed in writing:

I acknowledge that your preference is to proceed with the IF in an oral format, via MS Teams, however, I will be proceeding with this IF request in writing. Moving forward in writing will allow us both the opportunity to provide thorough and well thought out feedback throughout the process. Based on the accommodation recommendations, the requirement was to allow you enough time to prepare for discussions, moving forward in writing also addresses this need.

[58] While the format chosen was not what the Applicant preferred, the record does not indicate that the format compromised any of the Applicant's accommodations. The Hiring Manager advised that they would continue to keep the third party copied on all correspondence and the Hiring Manager continued to respect the timing outlined in the accommodation measures.

[59] The Applicant has not established any procedural unfairness with the format chosen.

(3) Allegation of bias

[60] There is a presumption of impartiality and good faith on the part of administrative decision-makers: *Benzina v Canada (Citizenship and Immigration)*, 2021 FC 747 at para 40. Allegations of bias are thus serious and require material evidence to succeed; suspicion, conjecture, or the applicant's impression is not enough: *Dickinson v Canada (Attorney General)*, 2024 FC 1480 at para 122.

[61] The test to establish a reasonable apprehension of bias is what an informed person, viewing the matter realistically and practically would conclude. It asks whether this reasonable person would find that the decision-maker would not decide the matter fairly, consciously or unconsciously: *Committee for Justice and Liberty et al v National Energy Board et al*, 1976 CanLII 2 (SCC) at 394.

[62] There is insufficient evidence to make such a finding in this case.

[63] The Applicant contends that the Director General was the actual decision-maker. He asserts that the Hiring Manager, as subordinate to the Director General, was therefore not the right person to conduct the IF as she was in a conflict of interest by virtue of her position. In my view, there is no evidence to support this claim.

[64] I have considered the correspondence identified by the Applicant. However, it does not establish that the Director General was the decision maker. To the contrary, the documentary evidence indicates that the Hiring Manager was the person responsible for extending the

Appointee's acting appointment and was the person who specifically requested a second language exception to facilitate the extension.

[65] The Recourse Policy expressly states that “[t]he manager responsible for the staffing decision must conduct the IF” (Recourse Policy, s 5.9.3). Thus, allowing the Hiring Manager to manage the IF was consistent with this policy.

[66] As noted by the Respondent, this Court has previously considered and disregarded the argument that a hiring manager will have an “impermissibly closed mind” by virtue of their position as the person responsible for the hiring decision: *Anderson v Canada (Customs and Revenue Agency)*, 2003 FCT 667 [*Anderson*] at para 48.

[67] The Applicant has not pointed to any actions taken by the Hiring Manager that were “so markedly inconsistent with the relevant legislative context” that they would amount to bad faith: *Freeman v Canada (Citizenship and Immigration)*, 2013 FC 1065 [*Freeman*] at para 27. Nor has he established that there was a recklessness in the exercise of the Hiring Manager's authority: *Freeman* at para 29. There is no evidence to support the allegation of bad faith.

(4) Disclosure of documents

[68] Section 5.6 of the Recourse Policy provides a process for the request and delivery of disclosure during the IF process. The CRA followed this process by providing disclosure to the Applicant on February 13 and 28, 2023. The documents included the staffing action rationale, email correspondence relating to the Appointee's appointment and extensions, the recourse

notifications and the recourse period, and the Appointee's exception to the second language requirement. The disclosure also included translations of various emails from French to English for the Applicant's benefit.

[69] The Applicant asked for additional information on March 8, 2023. This included 30 additional itemized requests, including for information relating to previous acting appointments completed by the Appointee, acting appointments completed by other employees, general information about the status and linguistic profile of other positions within the CRA's Audit Division, and information relating to time periods outside of the IF process. The Hiring Manager responded substantively to the requests, explaining that most of the information was outside the scope of the recourse, while noting that certain documents had either already been provided or did not exist. In my view, the responses provided to the requests were reasonable.

[70] As emphasized in sections 5.9.1 and 5.9.2 of the Recourse Policy, IF is designed to review an individual employee's concerns about arbitrary treatment and to provide an employee with information regarding "their treatment as a result of a staffing decision". It is by definition limited to a single staffing action and to information related to the treatment of the employee. The duty of fairness does not require disclosure of information that is irrelevant to the IF process (*Anderson* at para 50), including information about other staffing actions.

[71] In this case, the evidence does not establish that the CRA refused to disclose any relevant information to the Applicant. Indeed, in the correspondence from February 28, 2023, the Hiring

Manager confirmed that all the records related to the staffing action had been shared with the Applicant.

[72] While the Applicant highlights that one memorandum was disclosed at a later date, this does not establish procedural unfairness. As set out in section 5.6.1 the Recourse Policy, disclosure is ongoing. It is not limited to a one-time exchange of information. There is no evidence to suggest the document was intentionally withheld for inappropriate reasons.

[73] Similarly, while the Applicant raises concerns about the digital format of certain disclosure, as noted by the Respondent, where it was able to, the CRA provided the documents in a different format. Where it did not provide the requested format, it explained why.

[74] The Applicant argues that the failure to provide a copy of the initial offer letter demonstrates that disclosure was inadequate, particularly as this document was included in the CTR. However, the challenge here was only with respect to the third extension of the acting appointment. Further, the Applicant has not demonstrated how the offer letter would have assisted him with the IF or the identification of arbitrary treatment.

[75] The Applicant has not established that the disclosure was incomplete or insufficient, or that the process of receiving disclosure was procedurally unfair in any way.

(5) Accommodation and the Request for Informal Conflict Resolution

[76] The Applicant contends that the Hiring Manager failed to provide recourse in accordance with the accommodations established and failed to act in good faith per the accommodation arrangement and Recourse Policy.

[77] While the IF was ultimately found to be ineligible, the Applicant has not shown that the Hiring Manager failed to respect and adhere to the accommodation measures throughout the process. As already noted, the conversion of the process to a written format was not procedurally unfair.

[78] The Applicant has not established a breach of procedural fairness in the handling of the IF request or the accommodation measures.

[79] As to the Applicant's request for ICR, this was raised for the first time in the Applicant's April 20, 2023 correspondence. There is no requirement in the Recourse Policy for ICR; it is a voluntary process. The Hiring Manager was of the view that ICR would not advance the IF process. In view of the stage of correspondence between the parties at the time of the request, and the format chosen for the IF, I do not consider the refusal to participate in ICR to be unreasonable. Nor do I consider it to constitute a breach of procedural fairness.

[80] The Applicant additionally argues that the Hiring Manager "created a new outcome" that was not authorized by the Recourse Policy by deeming his request for IF ineligible. However, as

this concern primarily goes to the merits of the Decision it will be discussed in the reasonableness analysis below.

B. *Did the CRA err in determining the Applicant's request was ineligible for IF?*

[81] The Applicant contends that there is no provision in the Recourse Policy that deems an IF request ineligible if an employee does not provide specific details of the alleged arbitrary treatment. The Applicant asserts that the Hiring Manager was required to determine if he was treated arbitrarily, as the Applicant could not proceed to the DR stage of the internal review process without this finding.

[82] To seek IF, a requesting employee must complete a mandatory “Individual Feedback – Request and Response” form [Form] that “identifies their concerns, outlining the reasons they feel they were treated arbitrarily” (Recourse Policy, ss 5.5.3, 5.9.5). As emphasized by Justice Christine Pallotta in *Priest v Canada (Attorney General)*, 2024 FC 773, the IF process centers around the Form (at para 44). The form provides the following instructions:

Important – Requests must be sufficiently detailed to provide the manager or designate with an understanding of the issues of arbitrary treatment in order to respond in a meaningful way. Copies of relevant documents must be attached and any documents you wish to have disclosed should be identified in the request.

[83] The Recourse Policy requires that the manager address the employee's concerns and reasons why they feel they were treated arbitrarily as identified on the Form (Recourse Policy, s 5.9.10). Articulation of those concerns is therefore foundational for the manager to respond in a meaningful way.

[84] As stated at section 5.9.5 of the Recourse Policy, the employee “must” identify their concerns and the reasons they feel they were treated arbitrarily to obtain IF. This requires more than just a general assertion. As emphasized on the Form, “requests must be sufficiently detailed” to provide the manager “with an understanding of the issues of arbitrary treatment in order to respond in a meaningful way.”

[85] The Respondent concedes that the Applicant may not have been able to articulate his concerns at the time he initially filed the Form. However, upon disclosure of the records relating to the staffing action, the Applicant had all relevant information before him.

[86] The Applicant was given additional time to identify his concerns of arbitrary treatment and was reminded several times that particularizing his concerns was necessary for the process to continue. However, he refused to provide the details of his concerns, which were necessary to provide a meaningful response. This was particularly necessary as the Applicant was advised that the IF would be conducted in writing. In this context, identification of the Applicant’s concerns of arbitrary treatment in writing was critical for the process to continue.

[87] In exchanges between the Hiring Manager and the Applicant, the Applicant raised concerns that a two-step approach should be followed. This approach would allow him to first receive information about the staffing action before articulating his concerns of arbitrary treatment.

[88] Consistent with this approach, the Applicant was given the opportunity to identify and clarify his concerns by first receiving disclosure of documents in response to his requests. However, despite this disclosure and the additional time provided, he did not identify his concerns.

[89] In my view, the Applicant has not established that the Decision was unreasonable, nor has he established that the finding of ineligibility was arrived at in a procedurally unfair manner.

[90] As a final note, I will comment on the decision in *Ahmad v Canada (Revenue Agency)* 2011 FC 954 [*Ahmad*] which was raised by the Respondent in support of its argument on the reasonableness of the Decision. As the Applicant only had limited notice of this decision, he was permitted to file supplementary submissions to address its relevance. Upon consideration of the paragraphs identified by the Respondent and review of the Applicant's submissions, I find *Ahmad* to be of limited relevance as it relates to DR and primarily dealt with the jurisdiction of the decision-reviewer. Therefore, I will not comment on it further.

V. **Conclusion**

[91] For all the reasons noted, the application must be dismissed.

[92] As the Respondent made no specific submissions on costs, none shall be awarded.

JUDGMENT IN T-1182-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no order as to costs.

"Angela Furlanetto"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1182-23

STYLE OF CAUSE: ADEEB AHMED v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: FEBRUARY 12, 2026

ADDITIONAL WRITTEN SUBMISSIONS BY THE APPLICANT: MARCH 4, 2026

JUDGMENT AND REASONS: FURLANETTO J.

DATED: MAY 6, 2026

APPEARANCES:

Adeeb Ahmed	FOR THE APPLICANT (ON HIS OWN BEHALF)
Marylise Soporan	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada Ottawa, Ontario	FOR THE RESPONDENT
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