

N. S. v. Canada

Communication No. 26/1978

28 July 1978

ADMISSIBILITY

Submitted by: N. S. on 19 January 1978

Alleged victim: The author

State party: Canada

Date of decision on inadmissibility: 28 July 1978 (fourth session)

Decision on Admissibility

The author of the communication (initial letter dated 19 January 1978 with enclosures and further letter dated 25 April 1978) is a 45-year-old Indian citizen residing in Canada, who worked for the Department of Indian Affairs and Northern Development, Government of Canada, from 19 March 1973 until he was dismissed from his post as a teacher in a public school on 10 December 1976. He claims that he was dismissed because of his race and religion and that he failed in his recourse to the Public Service Staff Relations Board because the Adjudicator was biased, ignored evidence and rendered a decision based on preconceived views. After the expiry of the time-limit for appeal the author applied to the Federal Court of Appeal for an extension of the time to appeal. Extension of time to appeal was not granted and his application was dismissed on 14 November 1977. The author concludes that, accordingly, he has exhausted domestic remedies.

The author calls for assistance to obtain justice and his reinstatement. He alleges that he is a victim of violations of articles 2, 7, 14, 17 and 26 of the Covenant.

Before considering a communication from an individual who claims to be a victim of a violation of the Covenant, the Committee shall ascertain, under article 5 (2) (b) of the Optional Protocol that he has exhausted all available domestic remedies.

In the present case the author failed to avail himself in time of the remedy of appeal. Further, the communication does not disclose the existence of any special circumstances which might have absolved the author, according to the generally recognized rules of international law, from exhausting the domestic remedies at his disposal. He cannot, therefore, be considered to have exhausted the remedies available to him under Canadian law.

The Human Rights Committee therefore decides:

The communication is inadmissible.