Date: 20071031

Docket: T-657-07

Citation: 2007 FC 1130

Ottawa, Ontario, October 31, 2007

Present: The Honourable Madam Justice Tremblay-Lamer

BETWEEN:

NATIONAL BANK OF CANADA

Applicant

and

MONIQUE LAJOIE

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

Introduction

[1] This is an application for judicial review of a decision by the Arbitration Tribunal established under section 242 of the *Canada Labour Code*, where the adjudicator decided that the respondent had been unjustly dismissed by her employer, the National Bank of Canada.

[2] The statement of facts is largely based on the affidavits filed by the applicant in support of its application, which are contradicted in part by the respondent in her affidavit.

[3] However, the overall situation may be summarized as follows.

Summary of facts surrounding the dismissal

[4] The applicant hired the respondent on February 7, 1967. She was Director of financial services at the Bank's branch in Brossard at the time of her dismissal on April 13, 2005.

[5] The respondent was on sick leave from December 12, 2001 to September 30, 2002.

[6] After she returned to work and in her last 40 months, the respondent received annual performance evaluations bearing the words "partially satisfactory". Specifically, the employer reported complaints from seven clients; unfavourable remarks by members of the banking team were also noted therein. Moreover, the employer criticized her for being unprofessional on a number of occasions, including a messy office, an aggressive tone, discussing her personal affairs with clients, negative criticism about the Bank in the hallways, frequent tardiness adversely affecting customer service and finally problems in terms of the quality of her work. The performance assessment dated May 21, 2003, covering the period from November 1, 2002 to April 30, 2003, also noted that Ms. Lajoie's quantitative performance in sales and business development was very weak.

[7] To address these behavioural problems, the respondent's supervisors followed a corrective plan. Between April 30, 2003 and April 13, 2005, the respondent was subject to the measures contained in the Bank's corrective policy, composed of four levels: (1) verbal warning from the

employer, (2) written reminder from the employer and a plan of action, (3) written reminder and reflection period with a written undertaking from the employee to rectify her inadequate conduct and (4) dismissal.

[8] According to the applicant, the efforts to rectify the respondent's conduct were unsuccessful in modifying her professional conduct, which led to her dismissal on April 13, 2005.

[9] In a decision dated March 19, 2007, the adjudicator determined that applicant had unjustly dismissed the respondent. The adjudicator ordered the applicant to pay the respondent the salary lost since the date of her dismissal, to withdraw the dismissal reference from her record and replace it with a reference to her retirement, to pay all the legal fees of Ms. Lajoie's counsel incurred as a result of the arbitration.

[10] The errors accepted by the Court primarily involve the breach of the rules of natural justice as well as errors in law. These errors are sufficient to justify the intervention of this Court without it being necessary to decide on the errors of fact where there are inconsistent elements.

Issues

[11] ***1. The standard of review.***

2. The breach of the rules of natural justice.

3. The interpretation and application of the doctrine of culminating incident.

4. The employer's burden of proof.

5. ***The assessment of the evidence.***

6. ***The remedies awarded.***

Analysis

1. The standard of review

[12] It has been consistently decided in the case law that a breach of the principles of procedural fairness does not give rise to the application of the pragmatic and functional analysis (see *Sketchley v. Attorney General of Canada,* [2006] 3 F.C.R. 392, [2005] F.C.J. No. 2056 (F.C.A.) (QL), at paragraph 46; *Moreau-Bérubé v. Nouveau-Brunswick (Judicial Council),* [2002] 1 S.C.R. 249. The decision-maker's obligation in a specific context will be determined in accordance with the factors established in *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, [1999] S.C.J. No. 39 (QL). The courts must determine whether the decision-maker respected the obligation of procedural fairness in the circumstances of the matter. No deference is necessary.

[13] In terms of the merits of the adjudicator's decision, the Federal Court of Appeal applied the pragmatic and functional approach in *H & R Transport Ltd. v. Baldrey*, [2005] FCA 151, [2005] F.C.J. No. 729 (QL), at paragraphs 4-8 and determined that the appropriate standard of review for decisions made by adjudicators in matters of unjust dismissal varies according to the nature of the issue raised. When the issue pertains to determining the appropriate common law principles in matters of unjust dismissal, the correctness standard applies. However, when the issue involves errors of fact, the appropriate standard is that of patent unreasonableness.

[14] The applicant submits that following the Supreme Court of Canada's decision in *Council of Canadians with Disabilities v. Via Rail Canada Inc*., [2007] S.C.R. No. 15, the unreasonableness standard must be applied to errors of fact made by the adjudicator.

[15] In this regard, I adopt the comments made by Madam Justice Abella in this decision, explaining the conceptual challenge of delineating the difference between what is patently unreasonable and what is unreasonable since both concepts speak to whether a tribunal's decision is demonstrably unreasonable, that is, such a marked departure from what is rational as to be unsustainable. She also states:

> 103 But whatever label is used to describe the requisite standard of reasonableness, a reviewing court should defer where "the reasons, taken as a whole, are tenable as support for the decision" (*Ryan*, at para. 56) or "where ... the decision of that tribunal [could] be sustained on a reasonable interpretation of the facts or of the law" (*National Corn Growers Assn. v. Canada (Import Tribunal)*, [1990] 2 S.C.R. 1324, at pp. 1369-70, *per* Gonthier J.) The "immediacy or obviousness" to a reviewing court of a defective strand in the analysis is not, in the face of the inevitable subjectivity involved, a reliable guide to whether a given decision is untenable or evidences an unreasonable interpretation of the facts or law.

2. Natural justice

a. Evidence gathered outside the hearing.

[16] The applicant submits that the adjudicator breached the rules of natural justice in basing his decision on evidence gathered outside the hearing. In fact, at paragraph 191 of the decision, the adjudicator refers to a conversation that he had with Ms. Racine, the manager of the respondent, Ms. Lajoie, outside the hearing. He explained:

> [TRANSLATION]
>
> Finally, it is important that we talk about the retirement. It is true that Ms. Racine did not talk about it in her testimony. She spoke to me and it was entirely by chance that she pointed out to me that Ms. Lajoie could retire, after I remarked on my surprise at a

> dismissal after 38 years of service. It was outside the hearing while it was the opposite for Ms. Pelletier and Ms. Proulx, while that statement was made at the hearing.

[17] The applicant's counsel points out that he had no knowledge of this conversation before reading the decision. Further, contrary to what the adjudicator submits, Ms. Pelletier and Ms. Proulx state in their affidavits that they did not testify before him that Ms. Lajoie could retire.

[18] In my opinion, there is no doubt that the fact that the adjudicator considered conversations which took place outside the hearing without giving the applicant the opportunity to contradict or refute this evidence amounts to a breach of natural justice.

[19] As author Yves Ouellette explains in *Les tribunaux administratifs au Canada, Procédure et preuve,* Montréal, Les éditions Thémis, 1997, at page 305:

> [TRANSLATION]
>
> It is repugnant to fairness that an administrative tribunal would base its decision on information that is secret or that is obtained outside the proceeding, without the knowledge of one party, as this party would then be deprived of the opportunity to contradict. Unless the organization is expressly authorized by law to proceed *ex parte* – which is exceptional or generally subject to the consent of the parties – specific information must not be received in the record in the absence of the parties. In effect, a decision-maker must not take the initiative to carry out a personal and private investigation in a matter before him, through for example a secret or private conversation with a witness, a party or his agent. In short, an administrative tribunal obtains information by receiving evidence in the context of the hearing and with complete transparency. However, it must be pointed out that the judicial reviewer will generally not intervene unless the information received or obtained outside the hearing has caused prejudice, unlike trivial information.

[20] In this case, the information obtained was not trivial since the adjudicator relied on this evidence to order the applicant to retire Ms. Lajoie. The applicant did not have the opportunity to

make its submissions on this point, which created a prejudice for it. There was therefore a breach of the rules of natural justice on this point.

b. The failure to consider relevant and critical evidence.

[21] The applicant also argues that the adjudicator breached the rules of natural justice in refusing to consider relevant and critical evidence.

[22] The adjudicator's obligation to take into account all of the relevant evidence is provided under paragraph 242(2)(*b*) of the *Canada Labour* Code, which states:

> Powers of the adjudicator
>
> (2) An adjudicator to whom a complaint has been referred under subsection (1):
>
> (*b*) shall determine the procedure to be followed, but shall give full opportunity to the parties to the complaint to present evidence and make submissions to the adjudicator and shall consider the information relating to the complaint; and
>
> [Emphasis added.]

[23] Even though this is not automatic, it is true that in certain cases the failure to consider relevant evidence could have such an impact on the fairness of the proceeding that we have no choice but to find that there has been a breach of natural justice, *Université du Québec à Trois-Rivière v. Laroque,* [1993] 1 S.C.R. 471, at page 491.

[24] In this case, the adjudicator completely rejected the evidence of the existence of different complaints by the clients of the Bank against Ms. Lajoie, [TRANSLATION] "since it was hearsay and even more so because this employee had 38 years of service."

[25] First, the fact that the respondent was a long-time employee cannot be a ground for rejecting this critical evidence. Secondly, the adjudicator incorrectly interpreted the notion of hearsay by confusing the existence of complaints that are not hearsay with the basis of these complaints. The applicant received the complaints, and the applicant had witnesses testify in that regard. The evidence to the effect that seven of the Bank's clients had complained of Ms. Lajoie's conduct was therefore undisputed. This fact was significant and relevant since it was the primary cause for dismissal.

[26] In regard to the facts that gave rise to the complaints, the adjudicator could certainly take into account the fact that it was hearsay. However, he did not have the obligation to dismiss the evidence on this ground if it was relevant and there was no blatant breach of natural justice. In fact, administrative tribunals "are not bound by the strict rules of evidence applicable in criminal or civil courts; they may, therefore, receive and accept hearsay evidence" *Canada (Attorney General) v. Mills*, [1984] F.C.J. No. 917. In this matter, the Federal Court of Appeal identified situations where hearsay evidence would not be acceptable, for example in cases where the respondent has not been informed of the evidence and as a result has not had the opportunity to refute this evidence or proceed with a cross-examination.

[27] I also note that Ms. Lajoie admitted that three of the seven complaints were founded. Even though she later denied her admissions, the adjudicator should have taken them into account to assess her credibility.

[28] It is my opinion that this evidence had such an impact on the fairness of the proceeding that I find that there was a breach of natural justice. This omission of relevant facts also amounted to an error of law justifying the intervention of the Court, *Denis Lemieux, le contrôle judiciaire de l'action gouvernementale, Publication CCH/ EMP 2. 961*. Having dealt with this issue under this heading, it need not be discussed again later on.

c. The adjudicator's bias

[29] It is settled law that the question that must be asked in the context of analyzing the existence of bias or a reasonable apprehension of bias is: "what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude" (*Committee for Justice and Liberty v. Canada (National Energy Board)*, [1978] 1 S.C.R. 369 (QL), at paragraph 40).

[30] After carefully reviewing the adjudicator's decision, I acknowledge that he useful very colourful language establishing a certain bias vis-à-vis the applicant. It is true that this attitude could have tainted his decision but I am not certain that it meets the high burden for establishing the reasonable fear of bias. Whatever the case, I need not make a finding since the decision is set aside for other reasons and the matter will not be heard by the same adjudicator.

3. The interpretation and application of the doctrine of culminating incident.

[31] The applicant contends that the adjudicator failed to consider the legal notion of the culminating incident. According to this principle, an employer is justified in proceeding with a dismissal following repeated wrongful acts even if the ultimate act prompting the decision to be made does not amount to a serious fault. In my opinion the applicant is correct on this point for the following reasons.

[32] According to subsection 242(3) of the Code, the adjudicator is mandated to determine whether the dismissal is unjust. In the context of this analysis, he may take into account considerations like the seriousness of the immediate offence, whether the negative conduct was repetitive, the history of the years of service and employment record, whether the employer had previous unsuccessful attempts of more moderate disciplinary measures, and finally whether the employee appears to have been the subject of arbitrary and harsh treatment or whether her discharge is in accord with the consistent policies of the employer (*Wm. Scott. and Co. (1977)*, 1 Can. LRBR 1, *Wm. Scott & Co. (Re)*, [1976] B.C.L.R.B.D. No. 98 (QL), at paragraph 14. This is a non-exhaustive list of the factors which may be relevant in analyzing the facts and deciding whether a dismissal is unjust, *Kelowna Flightcraft Air Charter Ltd. v. Kmet*, [1998] F.C.J. No. 740 (QL), at paragraph 19).

[33] In assessing negative and repetitive conduct, the doctrine of “the culminating incident” was elaborated to assess in what circumstances it is appropriate for the employer to take disciplinary

history into account. The authors Donald J.M. Brown and David M. Beatty, *Canadian Labour Arbitration*, Vol. 1 (The Cartwright Group: Ontario, 2007), p. 7-143, explain:

> . . . where an employee has engaged in some final, culminating act of misconduct or course of conduct for which some disciplinary sanction may be imposed, it is entirely proper for the employer to consider a checkered and blameworthy employment record in determining the sanction that is appropriate for that final incident. . . .

[34] In this case, the adjudicator noted the letter dated February 11, 2005, corresponding to a "level 3" corrective warning giving the respondent until April 8 to improve her performance. He did not mention however the fact that following a client's complaint, she called the client back to "tell him off", which she had done in the past with another client. This element was the culminating factor leading to Ms. Lajoie's dismissal and ought to have been considered by the adjudicator.

4. The burden of proof

[35] The applicant argues that the adjudicator erred in interpreting the burden of proof necessary in requiring a serious fault.

[36] Pursuant to sections 240 et seq. of the Code, the employer is bound to establish that the dismissal was not unjust, i.e. that it was based on just and sufficient cause. Therefore, there need not be a serious fault before the employer's can justifiably terminate the employment, *Canadian Imperial Bank of Commerce v. Boisvert,* [1986] 2 F.C. 431 (QL), at paragraph 9.

[37] In this case, the adjudicator states at paragraph 192 that [TRANSLATION] "When an employee has had many years of service, the employer must attempt to organize a proper departure for her, despite everything, unless there is a serious fault" [Emphasis added.]. He therefore misunderstood

the burden of proof to be met by the employer, which did not have to establish a serious fault to justify the termination of employment.

5. The assessment of the evidence

[38] The applicant also identified several errors in the assessment of the evidence before the adjudicator, which explains the numerous affidavits that she filed in support of her application for judicial review, since the hearing before the adjudicator was not recorded. Several errors bear on key factors, like Ms. Lajoie's admissions and the clients' complaints. However, Ms. Lajoie's affidavit contradicts some of these factors. It is therefore difficult for me to address them. However, as I stated above, the errors in law identified as well as the breach of the rules of natural justice justify setting aside the decision.

6. The remedies awarded

[39] During the pleadings before the adjudicator, counsel had jointly requested that he retain his jurisdiction on the appropriate remedies, which was granted. Despite this, the adjudicator decided to order the Bank to pay the respondent the salary lost since Ms. Lajoie's dismissal and to strike from the respondent's record or elsewhere the reference to the dismissal to replace it with a reference to retirement.

[40] In my opinion, although the adjudicator had jurisdiction to award the relief, he had to hear the parties' submissions before deciding on this issue. Such an omission amounts to a breach of the duty to act fairly.

[41] I also find that the adjudicator erred when he ordered the Bank to pay the respondent's legal fees. The case law is clear on this point. The reimbursement of legal fees is justified only in exceptional circumstances (*Banca Nazionale Del Lavoro of Canada Ltd. v. Lee-Shanok*, [1988] F.C.J. No. 594 (QL)). In this matter, the Federal Court of Appeal stated that there must be some degree of reprehensible conduct. In this case, the adjudicator did not give any reason for his decision to order legal costs. In the absence of exceptional circumstances, he was not justified in making such an order.

[42] For these reasons, this application for judicial review is allowed. The adjudicator's decision dated March 19, 2007, regarding the unjust dismissal is set aside and the remedies awarded as a result of this decision are accordingly set aside.

[43] The applicant suggests that I also reject the complaint filed by the respondent, thereby substituting my decision for that of an adjudicator. I do not think that I have such a power. In *Bande indienne de Lac La Ronge v. Laliberté,* [2000] F.C.J. No. 640 (QL), the Federal Court of Appeal points out that the Court seized with the judicial review of the adjudicator's decision does not have the authority to make the decision that the adjudicator should have made. The matter will therefore be referred to another adjudicator for rehearing. With costs.

JUDGMENT

THE COURT ORDERS that the application for judicial review be allowed. The adjudicator's decision is set aside as regards the unjust dismissal as well as the relief granted as a result of this decision. The matter is referred for redetermination before another adjudicator.

Danièle Tremblay-Lamer
Judge

Certified true translation

Kelley A. Harvey, BCL, LLB

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-657-07

STYLE OF CAUSE:

NATIONAL BANK OF CANADA

Applicant

and

MONIQUE LAJOIE

Respondent

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: October 22, 2007

REASONS FOR JUDGMENT: MADAM JUSTICE TREMBLAY-LAMER

DATE OF REASONS: October 31, 2007

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ANNEX

Canada Labour Code, **R.S., c. L-1, s. 1**	***Code canadien du travail*, S.R., ch. L-1, art.1**
…	[…]
DIVISION XIV UNJUST DISMISSAL	SECTION XIV CONGÉDIEMENT INJUSTE
Complaint to inspector for unjust dismissal 240. (1) Subject to subsections (2) and 242(3.1), any person (a) who has completed twelve consecutive months of continuous employment by an employer, and (b) who is not a member of a group of employees subject to a collective agreement, may make a complaint in writing to an inspector if the employee has been dismissed and considers the dismissal to be unjust.	Plainte 240. (1) Sous réserve des paragraphes (2) et 242(3.1), toute personne qui se croit injustement congédiée peut déposer une plainte écrite auprès d'un inspecteur si : a) d'une part, elle travaille sans interruption depuis au moins douze mois pour le même employeur; b) d'autre part, elle ne fait pas partie d'un groupe d'employés régis par une convention collective.
Time for making complaint (2) Subject to subsection (3), a complaint under subsection (1) shall be made within ninety days from the date on which the person making the complaint was dismissed.	Délai (2) Sous réserve du paragraphe (3), la plainte doit être déposée dans les quatre-vingt-dix jours qui suivent la date du congédiement.
Extension of time (3) The Minister may extend the period of time referred to in subsection (2) where the Minister is satisfied that a complaint was made in that period to a government official who had no authority to deal with the complaint but that the person making the complaint believed the official had that authority. R.S., 1985, c. L-2, s. 240; R.S., 1985, c. 9 (1st Supp.), s. 15.	Prorogation du délai (3) Le ministre peut proroger le délai fixé au paragraphe (2) dans les cas où il est convaincu que l'intéressé a déposé sa plainte à temps mais auprès d'un fonctionnaire qu'il croyait, à tort, habilité à la recevoir. L.R. (1985), ch. L-2, art. 240; L.R. (1985), ch. 9 (1er suppl.), art. 15.
Reasons for dismissal 241. (1) Where an employer dismisses a person described in subsection 240(1), the person who was dismissed or any inspector	Motifs du congédiement 241. (1) La personne congédiée visée au paragraphe 240(1) ou tout inspecteur peut demander par écrit à l'employeur de lui faire connaître les motifs du congédiement; le cas échéant, l'employeur est tenu de lui fournir une déclaration écrite à cet effet dans les

may make a request in writing to the employer to provide a written statement giving the reasons for the dismissal, and any employer who receives such a request shall provide the person who made the request with such a statement within fifteen days after the request is made. Inspector to assist parties (2) On receipt of a complaint made under subsection 240(1), an inspector shall endeavour to assist the parties to the complaint to settle the complaint or cause another inspector to do so. Where complaint not settled within reasonable time (3) Where a complaint is not settled under subsection (2) within such period as the inspector endeavouring to assist the parties pursuant to that subsection considers to be reasonable in the circumstances, the inspector shall, on the written request of the person who made the complaint that the complaint be referred to an adjudicator under subsection 242(1), (a) report to the Minister that the endeavour to assist the parties to settle the complaint has not succeeded; and (b) deliver to the Minister the complaint made under subsection 240(1), any written statement giving the reasons for the dismissal provided pursuant to subsection (1) and any other statements or documents the inspector has that relate to the complaint. 1977-78, c. 27, s. 21. Reference to adjudicator 242. (1) The Minister may, on receipt of a report pursuant to subsection 241(3), appoint any person that the Minister considers appropriate as an adjudicator to hear and adjudicate on the complaint in respect of which the report was made, and refer the	quinze jours qui suivent la demande. Conciliation par l'inspecteur (2) Dès réception de la plainte, l'inspecteur s'efforce de concilier les parties ou confie cette tâche à un autre inspecteur. Cas d'échec (3) Si la conciliation n'aboutit pas dans un délai qu'il estime raisonnable en l'occurrence, l'inspecteur, sur demande écrite du plaignant à l'effet de saisir un arbitre du cas : a) fait rapport au ministre de l'échec de son intervention; b) transmet au ministre la plainte, l'éventuelle déclaration de l'employeur sur les motifs du congédiement et tous autres déclarations ou documents relatifs à la plainte. 1977-78, ch. 27, art. 21. Renvoi à un arbitre 242. (1) Sur réception du rapport visé au paragraphe 241(3), le ministre peut désigner en qualité d'arbitre la personne qu'il juge qualifiée pour entendre et trancher l'affaire et lui transmettre la plainte ainsi que l'éventuelle déclaration de l'employeur sur les motifs du congédiement. Pouvoirs de l'arbitre (2) Pour l'examen du cas dont il est saisi, l'arbitre : a) dispose du délai fixé par règlement du gouverneur en conseil; b) fixe lui-même sa procédure, sous réserve de la double obligation de donner à chaque partie toute possibilité de lui présenter des éléments de preuve et des observations, d'une part, et de tenir compte de l'information contenue dans le dossier, d'autre part; c) est investi des pouvoirs conférés au

complaint to the adjudicator along with any statement provided pursuant to subsection 241(1). Powers of adjudicator (2) An adjudicator to whom a complaint has been referred under subsection (1) (a) shall consider the complaint within such time as the Governor in Council may by regulation prescribe; (b) shall determine the procedure to be followed, but shall give full opportunity to the parties to the complaint to present evidence and make submissions to the adjudicator and shall consider the information relating to the complaint; and (c) has, in relation to any complaint before the adjudicator, the powers conferred on the Canada Industrial Relations Board, in relation to any proceeding before the Board, under paragraphs 16(a), (b) and (c). Decision of adjudicator (3) Subject to subsection (3.1), an adjudicator to whom a complaint has been referred under subsection (1) shall (a) consider whether the dismissal of the person who made the complaint was unjust and render a decision thereon; and (b) send a copy of the decision with the reasons therefore to each party to the complaint and to the Minister. Limitation on complaints (3.1) No complaint shall be considered by an adjudicator under subsection (3) in respect of a person where (a) that person has been laid off because of lack of work or because of the discontinuance of a function; or (b) a procedure for redress has been provided elsewhere in or under this or any other Act of Parliament.	Conseil canadien des relations industrielles par les alinéas 16a), b) et c). Décision de l'arbitre (3) Sous réserve du paragraphe (3.1), l'arbitre : a) décide si le congédiement était injuste; b) transmet une copie de sa décision, motifs à l'appui, à chaque partie ainsi qu'au ministre. Restriction (3.1) L'arbitre ne peut procéder à l'instruction de la plainte dans l'un ou l'autre des cas suivants : a) le plaignant a été licencié en raison du manque de travail ou de la suppression d'un poste; b) la présente loi ou une autre loi fédérale prévoit un autre recours. Cas de congédiement injuste (4) S'il décide que le congédiement était injuste, l'arbitre peut, par ordonnance, enjoindre à l'employeur : a) de payer au plaignant une indemnité équivalant, au maximum, au salaire qu'il aurait normalement gagné s'il n'avait pas été congédié; b) de réintégrer le plaignant dans son emploi; c) de prendre toute autre mesure qu'il juge équitable de lui imposer et de nature à contrebalancer les effets du congédiement ou à y remédier. L.R. (1985), ch. L-2, art. 242; L.R. (1985), ch. 9 (1er suppl.), art. 16; 1998, ch. 26, art. 58. Caractère définitif des décisions 243. (1) Les ordonnances de l'arbitre désigné en vertu du paragraphe 242(1) sont définitives et non susceptibles de recours

Where unjust dismissal (4) Where an adjudicator decides pursuant to subsection (3) that a person has been unjustly dismissed, the adjudicator may, by order, require the employer who dismissed the person to (a) pay the person compensation not exceeding the amount of money that is equivalent to the remuneration that would, but for the dismissal, have been paid by the employer to the person; (b) reinstate the person in his employ; and (c) do any other like thing that it is equitable to require the employer to do in order to remedy or counteract any consequence of the dismissal. R.S., 1985, c. L-2, s. 242; R.S., 1985, c. 9 (1st Supp.), s. 16; 1998, c. 26, s. 58. Decisions not to be reviewed by court 243. (1) Every order of an adjudicator appointed under subsection 242(1) is final and shall not be questioned or reviewed in any court. No review by certiorari, etc. (2) No order shall be made, process entered or proceeding taken in any court, whether by way of injunction, certiorari, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain an adjudicator in any proceedings of the adjudicator under section 242. 1977-78, c. 27, s. 21. …	judiciaires. Interdiction de recours extraordinaires (2) Il n’est admis aucun recours ou décision judiciaire — notamment par voie d’injonction, de certiorari, de prohibition ou de quo warranto — visant à contester, réviser, empêcher ou limiter l’action d’un arbitre exercée dans le cadre de l’article 242. 1977-78, ch. 27, art. 21. […]