

South Asian Focus

Loomba wins human rights ruling

Wed Jul 7 2010
Page: 1
Section: Community

Home Depot Canada and one of its senior employees discriminated against Sikh security guard Deepinder Loomba by "selectively enforcing" a hard-hat rule and threatening to fire him for not removing his turban, Ontario's Human Rights Tribunal has ruled.

The company and assistant manager Brian Busch also subjected Loomba to "discriminatory treatment in the form of rude and offensive comments and conduct" based on his Sikh religion, tribunal vice-chair Ena Chadha wrote in her decision.

Loomba had moved the Ontario provincial human rights commission for being forced to wear a hard helmet by Home Depot.

His plea for compensation has yet to be decided.

In its ruling, Ontario's Human Rights Tribunal said Home Depot (Canada) discriminated against Loomba by "enforcing" a hard hat on him and threatening him with dismissal if he didn't comply.

Loomba had moved the human rights panel seeking \$25,000 in damages and a change in Home Depot's policies.

He said he was told to wear a hard hat even though his workplace was away from the construction area.

When he did not comply, Busch made rude remarks against him in front of other workers and also warned that those not complying with his rules had been fired in the past, Loomba told the tribunal.

"I am satisfied that the complainant was treated differently because of his turban and that this was negative differential treatment," Chadha wrote.

On Dec 6, 2005, Loomba, who worked for Reilly's Security Services, showed up for his morning shift at a Milton Home Depot. The store was six weeks from opening and some areas were still under construction.

Loomba testified at the tribunal that Busch told him he had to put on a hard hat, despite the fact his role was to sit at a desk away from construction zones. He said people were moving around the site without hard hats.

Loomba testified that when he did not comply, Busch was rude to him and later mocked him with a group of workers at the site.

After he left the facility, he said Busch approached him and told him that individuals before him had been fired for not complying in a similar fashion.

Busch denied making fun of Loomba and said he

never threatened to fire him.

The case was brought before the tribunal after Home Depot failed to respond to complaints.

Chadha wrote that she found Loomba's testimony more credible than Busch's, which she said included "numerous discrepancies ... which could not be logically reconciled with the undisputed facts."

Loomba's lawyer **Raj Anand** said the decision was "significant and gratifying" for his client.

"He didn't lose any pay for this. He was simply expelled from a work site because of his religion," Anand said.

Though Anand said Reilly's opted not to support Loomba in his complaint - "choosing to favour its corporate client in Home Depot" - Loomba remains employed by the security company.

Chadha has not decided on a remedy for the case (Loomba is seeking around \$25,000 and changes to Home Depot's policies) and she still must determine if the Occupational Health and Safety Act, which requires hard hats to be worn at construction sites, is itself in conflict with Ontario's Human Rights Code.

- Torstar News Service

© 2010 Metroland Printing, Publishing & Distributing