

SUPREME COURT OF CANADA



Case in Brief: *Centrale des syndicats du Québec v. Québec (Attorney General)*

2018 SCC 18 | Judgment of May 10, 2018 | On appeal from the Court of Appeal of Québec

A Québec law delaying pay equity for women in female-dominated workplaces violated Charter equality rights, the Supreme Court has ruled, but it declined to strike the law down.

In 1996, Québec passed a law that required all employers with ten or more employees to ensure pay equity for women by 2001. Pay equity means equal pay for work of equal value. For most employers, the 1996 law meant identifying jobs that are done mostly by women, and comparing their salaries to the salaries for jobs done mostly by men in the same workplace. The problem was that there was no way to determine pay equity for women in workplaces where there were no mostly male jobs for comparison.

Measuring pay equity in those workplaces was difficult. Québec gave its Pay Equity Commission more time to come up with a solution. This meant that women in mostly-female workplaces waited six years longer for pay equity than women in mixed-gender workplaces. Some unions went to court to complain that this delay discriminated against the women who were forced to wait.

The trial judge found that the delay did not violate the women's equality rights. This was because the distinction the government made was not based on the women's sex (a ground of discrimination listed in the *Canadian Charter of Rights and Freedoms*). Instead, it was because there was no male group to compare them to. The Québec Court of Appeal agreed.

Justice Rosalie Silberman Abella, for the majority of the Court on this issue, held that the women's equality rights were breached. The delay targeted a group that had suffered systemic discrimination based on the idea that "women's work" was worth less than "men's work." Delaying access to pay equity for this group of women was discriminatory because it continued their historic disadvantage in the workforce. The government's reasons for the delay did not matter to the question of *whether* discrimination happened, but it did matter to deciding whether the delay was *justified*. Justice Abella, along with three other judges, concluded that it was. The delay was intended to achieve the important objective of finding an effective solution to the problem of pay inequity. This long-term benefit outweighed the short-term harm.

Justice Suzanne Côté, writing for herself and three other judges, said that there was no breach of the women's equality rights. This distinction was not based on sex, but on the unique situation the women found themselves in—working in places with no male job classes for comparison. The law did not discriminate against this group of women. It actually benefitted them by correcting the lower pay they got due to systemic discrimination. Québec was the first province to tackle this difficult aspect of pay equity and should be encouraged, not punished.

Chief Justice Beverley McLachlin (as she was when the case was heard) agreed with Justice Abella that the women's equality rights had been breached. But she disagreed that this breach was constitutionally justified. She would have struck down parts of the law.

This case was decided on the same day as [Québec \(Attorney General\) v. Alliance du personnel professionnel et technique de la santé et des services sociaux](#), which struck down other parts of Québec's pay equity laws.

For more information (case no. 37002):

- [Reasons for judgment](#)
- [Case information](#)
- [Webcast of hearing](#)

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Breakdown of the decision:

- Majority (on s. 15): [Abella](#) J. ([McLachlin](#) C.J. and [Moldaver](#), [Karakatsanis](#) and [Gascon](#) JJ. concurring)
- Dissenting (on s. 15): [Côté](#) J. ([Wagner](#), [Brown](#) and [Rowe](#) JJ. concurring)
- Majority (in the result): [Abella](#) J. ([Moldaver](#), [Karakatsanis](#) and [Gascon](#) JJ. concurring); [Côté](#) J. ([Wagner](#), [Brown](#) and [Rowe](#) JJ. concurring)
- Dissenting (in the result and on s. 1): [McLachlin](#) C.J.

Lower court rulings (available in French only):

- Court of Appeal of Quebec ([appeal judgment](#))
- Superior Court of Quebec ([trial judgment](#))

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