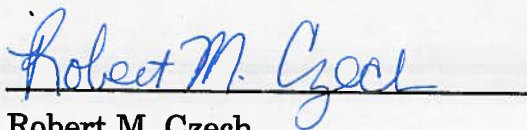




Re: Annu Batra

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
JUNE 3, 2015

A handwritten signature in blue ink that reads "Robert M. Czech". The signature is written over a horizontal line.

Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Unit H  
P. O. Box 312  
Trenton, New Jersey 08625-0312

attachment



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. CSV 00532-15

AGENCY DKT. NO. 2015-1926

**IN THE MATTER OF ANNU BATRA,  
MORRIS COUNTY DEPARTMENT  
OF ADMINISTRATION.**

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**Annu Batra, pro se**

**Stephen E. Trimboli, Esq., for Morris County Department of Administration  
(Trimboli & Prusinowski, attorneys)**

Record Closed: May 1, 2015

Decided: May 13, 2015

**BEFORE JESSE H. STRAUSS, ALJ:**

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Annu Batra appeals from her December 31, 2014, layoff as a systems analyst by the Morris County Department of Administration (Department or County) contending that it was done in bad faith. The County claims that her layoff was for the purpose of economy and efficiency.

After Batra's January 3, 2015, request for a hearing before the Civil Service Commission (Commission), the Commission transmitted the contested case, pursuant

to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13, to the Office of Administrative Law (OAL), where it was filed on January 12, 2015. I heard this matter on April 17, 2015, and closed the record on May 1, 2015, upon receipt of a closing brief by the County. Batra did not submit a brief.

### **FACTUAL DISCUSSION**

After having heard the testimony of the witnesses and reviewed the documentary evidence, I make the following **FINDINGS of FACT**.

Batra had held the Civil Service title of Systems Analyst since September 4, 2007. (R-5.) She argues that she had the title of supervisor and supervised five people before she was relieved of supervisory duties. In support of this contention Batra provided a February 27, 2008, disciplinary memo to an employee of the Office of Library Information Systems (OLIS), which identified Batra as "your supervisor." (A-1.) She also provided a Performance Appraisal Form she prepared for an employee where she signed it under the heading "Signature of Immediate Supervisor."

OLIS was established in 1995 within the County to provide information technology products and services to a private consortium of thirty-six municipal libraries and the Morris County Library known as the Morris Automated Information Network (MAIN).

MAIN developed and initiated a strategy with regard to its future that included a proposal to the County whereby the services provided by OLIS would be outsourced to MAIN. (R-12 and R-13.) In a March 11, 2013, memorandum from a MAIN Executive Board member to the County's Assistant Administrator, MAIN advised that the greatest benefit OLIS could provide to MAIN in 2013 would be the tools MAIN needs to become independent. It addressed a transition to independence so that OLIS tasks could be brought in-house. (R-14.) Chief Information Officer John Tugman attended and wrote minutes of a July 24, 2013, meeting that included then Assistant County Administrator M.J. Buchanan and representatives of MAIN. (R-15.) The participants discussed the steps that were needed to complete the outsourcing of OLIS functions to MAIN. The

parties prepared a phasing document whereby OLIS would supply MAIN with needed information; MAIN would hire key personnel and set up office in former OLIS space at Morris County Library; the County would provide MAIN with an agreed upon transition amount of money for 2014; and MAIN Computer Services staff would take over the role from the County. (R-17.) A document was prepared reflecting OLIS's computer services responsibilities that would transfer to the responsibility of MAIN. (R-18.) Through County Freeholder meetings of May 14, May 28, and June 11, 2014, the Freeholders considered and approved a proposal by MAIN "whereby the Office of Library Information Services could be privatized to MAIN with a 3-year investment from the County." It recognized that a layoff plan would have to be prepared and approved by the Civil Service Commission. (R-19, R-20, and R-21.)

On October 10, 2014, Frank Corrente for the appointing authority notified Batra "that for reasons of economy and efficiency you will be laid off from your permanent position of System Analyst effective at the close of the working day December 31, 2014." (R-1.) The Civil Service Commission notified Batra on December 15, 2014, that it had determined that there are no displacements that could be afforded to her. (R-3.) As set forth in the Confirmation of Layoff Action (R-4), the outsourcing of the OLIS functions to MAIN resulted in the layoff of Batra and two other employees, the demotion of three employees, and one employee declined to exercise her bumping rights.<sup>1</sup>

It is abundantly clear from the activities that led to the outsourcing of OLIS responsibilities to MAIN that the source of the initiative was MAIN rather than the County and that the transition affected several other employees besides Batra. The County's acquiescence to MAIN's initiative was for economy and efficiency.

On January 7, 2015, Batra filed an application with the New Jersey Public Employees Retirement System (PERS) for a service retirement to be effective February 1, 2015. (R-6, R-7, and R-22.)

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<sup>1</sup> Following her layoff by the County, Batra was hired by MAIN.

### ANALYSIS AND LEGAL CONCLUSIONS

The Civil Service Act provides that "a permanent employee may be laid off for reasons of economy, efficiency or other related reasons." N.J.S.A. 11A:8-1; see also N.J.A.C. 4A:8-1.1(a). However, such action by an appointing authority is permitted only where it represents a "good faith" effort to achieve governmental economy or efficiency. Prosecutors Detectives and Investigators Ass'n of Essex Cty. v. Bd. of Freeholders, 130 N.J. Super. 30, 43 (App. Div. 1974). Procedurally, an employee who is laid off may appeal the good faith of the layoff. In such an appeal, the former employee must prove by a preponderance of the evidence that the layoff was for reasons other than economy, efficiency or other related reason. N.J.S.A. 11A:8-4 and N.J.A.C. 4A:8-2.6(c); see also Sparany v. Brick Twp. Sch. Dist., 92 N.J.A.R.2d (CSV) 396. This burden on the former employee is a substantial one since he or she must overcome the presumption of validity or good faith attached to the appointing authority's action. Greco v. Smith, 40 N.J. Super. 182, 189 (App. Div. 1956); Schnipper v. N. Bergen Twp., 113 N.J. Super. 11, 14-15 (App. Div. 1951). Even if the motive for the removal is tainted by improper considerations, the action will be upheld if the position is unnecessary and can be abolished without impairing departmental efficiency. Santucci v. Paterson, 113 N.J.L. 192 (Sup. Ct. 1934). It is not enough that the layoff was apparently the result of mistakes of policy or judgment. Reimer v. Mayor and Council of Allendale, 123 N.J.L. 563, 567-68 (Sup. Ct. 1939). It is not enough that a reviewing agency may have had a different preference for achieving needed savings or that the employer could have chosen other alternatives to the layoff. Acchitelli v. Dep't of Env't'l Prot. and Energy, 93 N.J.A.R.2d (CSV) 716. In order to prevail, the former employee must demonstrate illegitimate reasons for the layoff such as spurious justifications, improper political considerations, or personal hostility toward the employee. In short, the appointing authority need not demonstrate good faith. Instead, the former employee must demonstrate bad faith on the part of the appointing authority. Greco, supra, 40 N.J. Super. at 189.

I **CONCLUDE** that Batra has not sustained her burden of proving by a preponderance of the evidence that her layoff was for reasons other than economy, efficiency, or other-related reason. She claims that there was personal animosity

between her and other employees in OLIS. However, there was no evidence that those employees initiated or participated in the process that led to the outsourcing. It is untenable that the County would have participated in this outsourcing process and caused the disruption of the employment status of several employees just to fulfill some malevolent motive to get rid of Batra. Improper motive is unlikely to be present in a layoff action that affects more than one employee. Prosecutors Detectives and Investigators Ass'n of Essex Cty., supra, 130 N.J. Super. at 43.

Batra contends that she was hired in 2007 to perform the duties of a supervisor; did indeed perform the duties of a supervisor; and had her supervisory duties improperly removed in May 2012. Batra also questioned why employees Noll and Sleeter were not laid off instead of or before her. None of those arguments are appropriate for consideration in a good-faith layoff appeal such as this one. The issue of whether seniority and/or bumping rights were properly applied should be addressed in a different proceeding before the Civil Service Commission. Indeed, it apparently was as reflected in an April 1, 2015, letter from the Civil Service Commission. A personnel and labor analyst for the Commission wrote as follows:

Ms. Batra claimed that her title rights were affected by having her supervisory duties removed. Additionally, she raised numerous arguments concerning the good faith of her layoff. N.J.A.C. 4A:8-2.6(a)(2) provides that a determination of rights appeal is based on a claim that an employee's layoff rights or seniority were determined and/or applied incorrectly. In the instant matter, a review of the record reveals that the only position Ms. Batra has held with Morris County is that of System Analyst.<sup>2</sup> Any duties that were removed while she was in this title would not affect her title rights determination. Title rights are not determined by specific duties performed within a title. Further, official records reveal that Ms. Batra's layoff rights were properly determined. Moreover, with regard to the good-faith arguments, the good-faith layoff appeal has been transmitted to the Office of Administrative Law for a hearing. Accordingly, the layoff rights appeal file has been closed.

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<sup>2</sup> Batra's claim that the County sent false information to the Civil Service Commission during the layoff process with regard to her title is unavailing. Despite her contention that she acted as and was treated as a supervisor, the records of the Civil Service Commission, rather than what the County sent to the Commission, reflects that she was a Systems Analyst rather than a supervisor for layoff and bumping purposes.

[R-9.]

Additionally there is no showing of bad faith in that OLIS had retained Dell to do a study of its functions prior to the MAIN initiative. Batra could not represent that Dell was recommending this outsourcing before the MAIN initiative or that the move to accept the MAIN initiative after the Dell report reflected bad faith on the part of the County.

Simply put, Batra has not proven that the justification for her layoff was spurious or solely motivated by personal hostility.

Notwithstanding the above conclusion of law, the County also contends that Batra's January 7, 2015, application to PERS to retire with a service pension constitutes a resignation that renders her layoff appeal moot. In In re Bryant, City of East Orange, DOP Docket No. 2007-3805 (January 30, 2008), the Merit System Board (now the Civil Service Commission) ruled that a voluntary retirement, not made in haste or involuntarily, removes the right for someone, who thereafter withdraws the retirement application, to pursue a claim that her appointing authority's refusal to accept the rescission of the retirement application constitutes a disciplinary removal. Batra has presented nothing to dispute this argument by the County. I **CONCLUDE** that Batra's retirement application has rendered her good-faith layoff appeal moot.

### **ORDER**

It is hereby **ORDERED** that the action of the Morris County Department of Administration to layoff Annu Batra be **AFFIRMED** and that this appeal be **DISMISSED**.

I hereby **FILE** my Initial Decision with the **CIVIL SERVICE COMMISSION** for consideration.



This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, P.O. Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 13, 2015  
DATE

Jesse H. Strauss  
JESSE H. STRAUSS, ALJ

Date Received at Agency:

May 13, 2015

Date Mailed to Parties: May 14, 2015

Kevin Sanders  
DIRECTOR AND  
CHIEF ADMINISTRATIVE LAW JUDGE

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**APPENDIX**

**LIST OF WITNESSES**

**For Appellant:**

Annu Batra

Ravi Batra

**For Respondent:**

John Tugman

**LIST OF EXHIBITS IN EVIDENCE**

**For Appellant:**

A-1 Memorandum, Bonfanti to Flaherty, February 27, 2008

A-2 Performance Appraisal for E.S., January 21, 2011

A-3 Respondent's Answers to Interrogatories

**For Respondent:**

R-1 Batra Individual Notice of Layoff or Demotion, October 8, 2014

R-2 General Notice of Layoff or Demotion, County of Morris

R-3 Batra Notice of Layoff and Demotion Rights, December 15, 2014

R-4 Confirmation of Layoff Action, January 7, 2015

R-5 CAMPS - Separation Statement for Batra

R-6 Batra Certification of Service and Final Salary - Retirement

R-7 Certification of Service and Final Salary – Retirement Acknowledgment

R-8 Acknowledgment of Receipt of Batra Layoff Rights Appeal, January 30, 2015

R-9 Decision Denying Layoff Rights Appeal, April 1, 2015

R-10 Layoff Plan, County of Morris, August 29, 2014

R-11 Civil Service Commission Approval of Layoff Plan, September 29, 2014

R-12 MAIN 2014 and Beyond "Strategic Plan"

R-13 "What is MAIN" Presentation, February 18, 2014

- R-14 E-mail correspondence, Kanouse to Buchanan, March 11, 2013
- R-15 MAIN Meeting Minutes/Action Items, July 24, 2013
- R-16 Not Admitted
- R-17 Phasing Outline
- R-18 Report, "OLIS Computer Services Desktop Current Responsibilities" and "Ticket Information"
- R-19 Executive Session Minutes, Morris County Board of Chosen Freeholders, May 14, 2014
- R-20 Executive Session Minutes, Morris County Board of Chosen Freeholders, May 28, 2014
- R-21 Executive Session Minutes, Morris County Board of Chosen Freeholders, June 11, 2014
- R-22 Retirement Application Status, Batra, April 15, 2015