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STATE OF NEW JERSEY

In the Matter of C.O.,
Department of Children and Families

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-2458

Discrimination Appeal

ISSUED: SEP 04 2015 (JET)

C.O. appeals the attached determination of the Director of Administration, Department of Children and Families, which found that the appellant failed to support a finding that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant filed a complaint on May 16, 2014 with the Office of Equal Employment Opportunity and Affirmative Action (EEO/AA), alleging that her supervisor, K.W., discriminated against and harassed her on the basis of her national origin (Nigerian). Specifically, the appellant alleged that K.W. asked her why Nigerians were criminals; questioned the appellant why she sent her children to private boarding school; showed up unannounced to a training the appellant facilitated due to complaints about her accent; questioned the appellant's capability to take Fellows training; implied that the appellant is "dumb;" did not approve the appellant's request to take domestic violence training; and asked the appellant about the cleanliness of vehicles in Nigeria.¹ After reviewing the appellant's complaint, the EEO/AA determined that it could not corroborate the appellant's allegations that K.W. discriminated against her. Accordingly, the EEO/AA determined that there was no violation of the State Policy.

On appeal, the appellant maintains that K.W. subjected her to discrimination, harassment, emotional abuse, and mental abuse in violation of the

¹ The appellant alleged that K.W.'s statement regarding the vehicles in Nigeria was in response to her concerns about the uncleanliness of State vehicles.

State Policy. Specifically, the appellant asserts that K.W. abused her supervisory capacity and attempted to ruin the appellant's reputation at work. The appellant contends that K.W.'s inappropriate behavior included denying the appellant's request to attend domestic violence training,² showing up unannounced to observe the appellant during a foster parent training, and stating that the appellant neglected her children due to the school they attend. The appellant adds that K.W. discriminated against her when she failed to collect money for her son who was injured while playing basketball.³ The appellant avers that K.W. stated, "Why should I collect money for your son when you and your husband have money to send your children to boarding school." In addition, the appellant contends that the information K.W. provided to the EEO/AA during the investigation is false. In this regard, the appellant asserts that she did not discuss leadership roles in the Nigerian culture or her children's school choice with K.W. The appellant adds that her work performance had nothing to do with K.W.'s underlying intent to destroy her reputation at work.⁴ The appellant avers that she was reassigned in 2014 and she is now happy in her new unit. Moreover, the appellant provides the names of three witnesses, K.J., J.G., and A.C., who can confirm her allegations and requests that these individuals be interviewed.

It is noted that the appellant provides various e-mails that she sent to K.W. in support of her appeal, and a memorandum from an employee who observed K.W.'s interactions with the appellant.

In response, the EEO/AA maintains that there was no violation of the State Policy. Specifically, the appellant initially alleged that K.W. subjected her to violence in the workplace, which was not investigated as it was not an EEO/AA issue. The appellant also alleged that she was treated differently by K.W. on the basis of her national origin. In response, the EEO/AA interviewed K.W., who confirmed that she denied the appellant's request to attend domestic violence training due to the concerns regarding the appellant's "mind set" and work performance. Further, the EEO/AA investigation revealed that the appellant was written up for being insubordinate and had difficulty with following instructions. The EEO/AA adds that K.W. confirmed that her purpose for observing the training unannounced was due to complaints she received regarding the appellant's failure to present a sufficient training to the class. In this regard, K.W. explained that it was reported that the appellant was observed talking on the phone during training. In addition, the EEO/AA contends that the appellant did not provide the names of

² The appellant notes that her request to attend domestic violence training was eventually approved by another supervisor.

³ The appellant notes that K.W. collected money for another child who was injured in a separate incident.

⁴ The appellant states that, contrary to K.W.'s assertions, she could not have been talking on the phone at the same time she was conducting a foster parent training, and most of the phone calls she receives during such trainings are from foster parents who are asking for directions or cancelling the training. The appellant notes that K.W. did not discipline the appellant.

witnesses in her initial complaint or during the investigation in support of her allegations. Moreover, none of the documentation provided by the appellant supported the allegations against K.W. Thus, there is no basis to substantiate a violation of the State Policy on the basis of the appellant's national origin.

CONCLUSION

N.J.A.C. 4A:7-3.1(a) provides that under the State Policy, discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.

The Commission has conducted a review of the record in this matter and finds that the appellant has not established that K.W. engaged in conduct in violation of the State Policy. The record shows that the EEO/AA conducted an adequate investigation. It interviewed the relevant parties in this matter and appropriately analyzed the available documents in investigating the appellant's complaint. Specifically, the EEO/AA could not corroborate the appellant's various allegations, and K.W. denied the allegations. K.W. denied the appellant's request for training due to legitimate, business related reasons unrelated to the appellant's national origin, and the appellant was ultimately approved to attend domestic violence training by another supervisor. K.W. also confirmed that she observed training facilitated by the appellant due to complaints that were received. There was no evidence that K.W. had any conversations with the appellant related to her national origin. None of the documentation provided by the appellant on appeal refutes the EEO/AA's determination. Other than her tenuous allegations, the appellant did not provide any substantive information to show that she was discriminated against on the basis of her national origin. Further, it appears that the appellant had a personality conflict with K.W. in connection with her work which is not evidence of discrimination. In this regard, disagreements between co-workers cannot sustain a violation of the State Policy. *See In the Matter of Aundrea Mason* (MSB, decided June 8, 2005) and *In the Matter of Bobbie Hodges* (MSB, decided February 26, 2003). Additionally, the appellant has failed to point to specific deficiencies in the investigation which would change the outcome of the case. As such, there is no substantive evidence to show that the appellant was discriminated against.

Further, the appellant was required to provide the names of all witnesses who had relevant information to the EEO/AA when she filed her initial complaint so

that it could interview these individuals as part of its investigation. The appellant's failure to provide this information does not evidence that the investigation was inadequate. Moreover, the appellant does not explain why she did not list these witnesses as part of her initial complaint. While the appellant now suggests that these other individuals should have been interviewed, she does not explain which specific allegations would be corroborated by these witnesses. Therefore, the investigation was thorough and impartial, and therefore, no basis exists to find a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

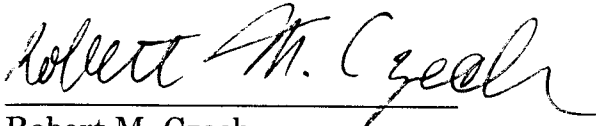
Accordingly, the appellant has failed to meet her burden of proof in this matter and no basis exists to find a violation of the State Policy.

ORDER

Therefore, it is ordered that this appeal be denied.

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
THE 2nd DAY OF SEPTEMBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
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Attachment

c: C.O.
Jillian Hendricks
Mamta Patel
Joseph Gambino



State of New Jersey

DEPARTMENT OF CHILDREN AND FAMILIES
P. O. BOX 717
TRENTON, NJ 08625-0717

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ALLISON BLAKE, PH.D., L.S.W.
Commissioner

February 2, 2015

Ms. C [REDACTED] O [REDACTED]
[REDACTED]
[REDACTED]

**Re: Discrimination Complaint of May 16, 2014
File No. 33-14**

Dear Ms. O [REDACTED]:

This letter is in reference to the discrimination complaint you filed on the basis of national origin on May 16, 2014, against the Respondent (K [REDACTED] W [REDACTED]) Supervisor Family Service Specialist 2, in the Morris West Local Office (MWLO). We thank you for bringing your complaint to the Office of Equal Employment Opportunity and Affirmative Action (EEO/AA).

The Department of Children and Families (DCF) does not condone or tolerate any form of discriminatory behavior in the workplace. Therefore, pursuant to the *New Jersey State Policy Prohibiting Discrimination in the Workplace*, the Office of EEO/AA conducted an investigation.

Specifically, you alleged that you were being harassed and disliked by the Respondent because of your national origin, you are Nigerian. You alleged the following incidents took place within the last two years of you being under the Respondent's supervision based on your national origin:

- You stated that the Respondent asked you why Nigerians were criminals;
- You complained to the Respondent about the unclean conditions of State vehicles at the MWLO and she in turn questioned you about the cleanliness of vehicles in Nigeria;
- The Respondent asked you why you sent your children to private-boarding school;
- The Respondent showed up unannounced at a training you facilitated due to complaints about your accent;

- The Respondent questioned your capability to take the Fellows training, implying that you were “dumb.”
- The Respondent did not approve you to take the Domestic Violence Training due to your cultural background.

Regarding the allegation that the Respondent asked you why Nigerians were criminals, the investigation discovered that the Respondent had a discussion in the office about the kidnapping of young women in Nigeria. It was not corroborated that the Respondent questioned why Nigerians were criminals.

Regarding the allegation about the condition of vehicles and Respondent questioning you about the cleanliness of vehicles in Nigeria, was not corroborated.

Regarding the allegation that the Respondent questioned you as to why you sent your children to private-boarding school, the investigation discovered that you and the Respondent both had conversations regarding your children’s education. The investigation found no proof that your nationality was a consideration in those discussions.

The allegation that you were being harassed when the Respondent showed up unannounced to observe a training you facilitated due to your accent was unfounded. The investigation discovered that the Respondent did observe the training due to complaints that you had not had been presenting the training information sufficiently. The Respondent found that you left the training to talk on your cell phone and were in the back of the classroom with your feet up part of the time.

In regards to the allegation that the Respondent implied that you were “dumb” when she questioned you about your capability of taking the Fellows training, the investigation revealed that you had difficulties in the office with performing functions and tasks that were associated with the Fellows training. Further, you did not complete a previous training (to supervise interns). For these reasons the Respondent did not recommend you for the Fellows training.

Lastly, the allegation that the Respondent did not approve you to take the Domestic Violence Training because she considered your cultural background, the investigation revealed that the Respondent considered your “mindset” that men should be in charge of the home no matter what and did not recommend you because she had problems with your work performance. You were ultimately approved for the training.

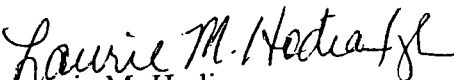
As a result of the investigation, it was not substantiated that the Respondent violated the *New Jersey State Policy Prohibiting Discrimination in the Workplace* on the basis of national origin. However the investigation revealed that you and the Respondent did engage in inappropriate behavior in the workplace and therefore the appropriate corrective action will be taken.

If you wish to appeal this determination, you must submit a written appeal to the New Jersey Civil Service Commission, Division of Merit System Practices and Labor Relations, Written Record Appeals Unit, P. O. Box 312, Trenton, NJ 08625-0312, postmarked or delivered within 20 days of your receipt of this determination. Your appeal must include a copy of this determination, the reason for the appeal and the specific relief requested. Be advised that effectively July 1, 2010, there is a \$20 fee for appeals. Please include a check or money order along with your appeal, payable to NJCSC. Persons receiving public assistance and those qualifying for NJCSC Veterans Preference are exempt from this fee.

At this time, I would like to remind you that the *State Policy* prohibits retaliation against any employee or applicant for employment who files a discrimination complaint or participates in a complaint investigation. Furthermore, this matter remains confidential and the results of the investigation should not be discussed with others.

Should you have any questions, please contact Jillian Hendricks at the Office of EEO/AA at (609) 888-7177.

Very truly yours,


Laurie M. Hodian
Director of Administration

cc: Jillian Hendricks, Director, EEO/AA, DCF
Mamta Patel, Director, EEO/AA, CSC
Suzanne Alvino, Area Director, Morris-DCP&P, DCF
Sharon Schlam, Manager, Morris West, DCP&P, DCF