



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of A.A., Motor Vehicle
Commission

Discrimination Appeal

CSC Docket No. 2023-658

ISSUED: July 3, 2024 (EG)

A.A., a former Technician, MVC¹ with the Motor Vehicle Commission (MVC), represented by Andrew B. Smith, Esq., appeals the determination of the Acting Chief Administrator for MVC, stating that the appellant failed to present sufficient evidence 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, a black female, filed a complaint with the MVC's Equal Employment Opportunity Office (EEO) on July 19, 2022, in which the appellant alleged Agency Manager E.C. discriminated against her due to age, color, gender identity, race and retaliated against her for failing to accommodate her. Specifically, the appellant claimed that in February 2022, she had requested to be moved from her then assigned work location because she had been experiencing cold temperatures that made her work conditions unbearable due to her having Raynaud's Syndrome. The appellant stated that E.C. refused to move her to a warmer part of the agency. Additionally, the appellant claimed that another employee had been moved to avoid the same cold temperatures.

In response to the appellant's complaints, the EEO conducted an investigation and determined that the appellant's allegations of a State Policy violation could not be substantiated. It indicated that it reviewed the appellant's complaint as well as

¹ It is noted that A.A. resigned in good standing from State service effective May 14, 2024.

the denial of her request to be moved to another location within the agency and any implied claim of disability discrimination. The investigation determined that the appellant offered no evidence of age or gender identity or expression discrimination by E.C. Thus, these allegations were deemed unsubstantiated. In regard to color and race, the appellant stated that she was discriminated against because the employee that was accommodated was white, while she is black. The EEO found that the employee referenced by the appellant never requested or received an accommodation and was also in a supervisory title. This employee had different job duties and responsibilities than the appellant. This supervisor was assigned to one permanent desk location, as all supervisors were, while an essential function of the appellant's job duties was to rotate between stations. Therefore, the EEO determined that the claim of race or color discrimination was unsubstantiated. The EEO also reviewed the appellant's claim of retaliation. The appellant had filed a claim of discrimination against another employee in 2019. The allegation included multiple complaints that the EEO had determined did not implicate the State Policy. Further, it found no nexus between the prior complaint and the present allegations. Therefore, it found no evidence of retaliation in the present matter.

In reviewing the appellant's allegations concerning a failure to be accommodated, the EEO found that E.C. had no input into whether an accommodation would be granted. It was the Leave Unit's decision to grant or deny such requests. The appellant's request was not granted because it is an essential function of a Technician to be rotated amongst each workstation according to the agency's schedule. The EEO found that the appellant was provided a reasonable accommodation of being permitted to wear heavier clothing including outerwear and gloves during her shift as needed. The EEO took periodic temperature reading of the different stations and found no difference among the stations. Further, it found her physician's request in letter dated August 11, 2022, to keep the office temperature to at least 75 degrees to be unreasonable, impractical, and not feasible as that warm a temperature would undoubtedly cause other employees to complain and would subject the public to uncomfortably warm temperatures. Accordingly, the EEO determined that the allegations of a failure to provide a reasonable accommodation or of disability discrimination were unsubstantiated.

On appeal, the appellant argues that the idea that she could not remain at one spot and still rotate through the different functions was untrue. She explains that all the computers at each station could perform all the necessary tasks and all that was needed to be done was to change a few signs. Additionally, she asserts that she had been subjected to racial discrimination as she had been threatened by a white security guard and nothing was done. Additionally, the appellant contends that the temperatures taken by the EEO were suspect as a signed document by 14 MVC employees agreed that the temperature at the stations in question were indeed colder. Further, she argues that the accommodation to wear warmer clothes was not helpful as her disease manifested in colder extremities and the use of gloves while working

on a computer was not practical. The appellant also raised an issue of disciplinary action that arose due to her inability to work in the colder sections of the office. It is also noted that the appellant raised numerous arguments and allegations, and submitted several documents via email only, and did not submit signed copies via regular mail.

The appointing authority, although provided the opportunity to submit further arguments and/or evidence, chose to rely on the findings and conclusions made in the determination letter.

CONCLUSION

N.J.A.C. 4A:7-3.1(a) states, in pertinent part, that the State of New Jersey is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, employment discrimination or harassment based upon certain specifically named protected categories are prohibited.

N.J.A.C. 4A:7-3.1(h) provides, in pertinent part, that retaliation against any employee who alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposed a discriminatory practice, is prohibited by this policy.

N.J.A.C. 4A:7-3.1(i) provides that the burden is on the complainant to articulate a sufficient nexus between the alleged conduct to a protected category pursuant to the State Policy.

N.J.A.C. 4A:7.3-2(i) provides that at the EEO/AA Officer's discretion, a prompt, thorough, and impartial investigation into the alleged harassment or discrimination will take place.

N.J.S.A. 11A:2-24 and *N.J.A.C. 4A:2-5.1(a)* provides that an appointing authority shall not take or threaten to take any reprisal action against an employee in the career, senior executive or unclassified service in retaliation for an employee's lawful disclosure of information on the violation of any law or rule, governmental mismanagement or abuse of authority.

N.J.A.C. 4A:2-5.2(a) provides that an employee may appeal a reprisal or political coercion action to the Commission within 20 days of the action or the date on which the employee should reasonably have known of its occurrence.

N.J.A.C. 4A:2-1.4(c) provides that the burden of proof shall be on the appellant.

Initially, it is noted that appellant had raised the issue of her disciplinary action related to her accommodation request when her appeal was first filed. She was informed in a letter dated November 28, 2022, that her title is governed under the Communication Workers of America (CWA) contract. The Commission has no jurisdiction over appeals of discipline of CWA members who must pursue their claims through the CWA contract or other applicable grievance procedures. *See N.J.A.C. 4A:2-2.1(c)*. This letter also stated that while an emailed scanned response to the appeal could be submitted, a signed copy of her response must be sent in the mail. Therefore, any arguments and submissions sent solely via email will not be reviewed. Moreover, any new allegations outside of those made in the complaint to EEO and addressed in the appointing authority's determination letter require that the appellant file a new complaint with EEO and receive a new determination before an appeal on those allegations can be reviewed by the Commission. Similarly, any new requests for reasonable accommodations need to be filed with the appropriate office within the appointing authority.

In the instant matter, the EEO determined that the appellant's complaint of discrimination and retaliation by E.C., and the failure to accommodate her request could not be substantiated. The EEO's investigation interviewed the relevant parties, reviewed the appropriate documentation and conducted field reviews of the appellant's worksite. It found that the appellant had not provided any evidence of discrimination based on age, race or color, gender identity or retaliation. Additionally, regarding the appellant's allegations of not being accommodated, it determined that her requests could not be accommodated because it impacted an essential function of her position. Further, her request to change the temperature in the office was not feasible due to the impact on other employees and the public attending to business the office. The Commission finds that the determinations made by the EEO were well reasoned.

On appeal, the appellant contends that she was subjected to racism and describes an incident with a security guard. However, the appellant fails to indicate how an alleged incident with a security guard is connected to the present matter. Further, the appellant cast doubts on the temperature readings taken by the EEO and claims that a letter signed by 14 MVC employees indicates the lower temperatures in the stations in question. Nevertheless, the appellant does not submit a copy of this letter. Moreover, the appellant argues that the accommodation she was given was not practical as she could not type with gloves. Nevertheless, the appellant does not provide any argument or evidence that she tried different gloves and could not type.

The appellant has not provided any dispositive evidence in support of her contentions that she was subjected to a violation of the State Policy. Therefore, the appellant has not sustained her burden of proof in this matter. Accordingly, based

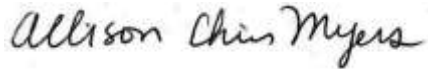
on the foregoing, no basis exists to find a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

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 3RD DAY OF JULY, 2024



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