



STATE OF NEW JERSEY

In the Matter of S.S.,  
Department of Law and Public Safety

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC Docket Nos. 2016-2807 and  
2017-2420

Discrimination Appeals

ISSUED: MAY 19 2017 (JET)

S.S., a Captain with the Division of State Police (State Police), Department of Law and Public Safety, represented by George T. Daggett, Esq., appeals the determinations of the Executive Assistant Attorney General and the Director, Office of Equal Employment Opportunity (EEO) which found that the appellant failed to support findings that she had been subjected to violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy). Since these matters concern similar issues, they have been consolidated herein.

The appellant filed a complaint with the EEO, alleging that she was subject to discrimination on the basis of gender by her supervisor. Specifically, the appellant alleged that G.T., a Major, State Police, discriminated against her on the basis of gender. The appellant alleged that G.T. spoke to her in a demeaning manor, yelled at her at meetings, talked down to her, threatened to reassign her, questioned employees in the Fiscal & Grant Management Bureau (F&GMB), but did not question personnel in other divisions, implemented core hours only for the F&GMB unit, and excluded her from meetings and various communications. The appellant also alleged that G.T.'s actions singled her out for scrutiny because of her gender, as she is the only female serving as a Bureau Chief in her unit.

The EEO conducted an investigation and interviewed the relevant witnesses, including the appellant and G.T. G.T. stated that he did not treat the appellant differently due to her gender, did not purposely exclude her from meetings, and denied that he only met with F&GMB employees to discuss the unit. In this regard, G.T. explained that, although he held meetings with F&GMB's employees, such

interviews were not limited solely to F&GMB personnel. G.T. also denied placing additional scrutiny on the appellant due to her gender. Rather, according to G.T., there were problems with the F&GMB unit that he needed to address. G.T. acknowledged changing the core hours of the F&GMB unit, but stated that he changed the unit's core hours because he received complaints from the Office of the Attorney General (OAG) about the unit. In this regard, the record showed that G.T. and OAG believed that the F&GMB unit was experiencing problems, such as failing to respond to OAG's inquiries and answering the telephone, and witnesses confirmed that there were personnel issues within the F&GMB unit. Additionally, the EEO found that the investigation revealed that G.T. received numerous communications from OAG regarding a significant backlog in the F&GMB unit's processing of grants, late invoices, and unused grant funds. As such, the EEO determined that G.T. took what he perceived as reasonable corrective measures to resolve such issues in the F&GMB unit and, as such, his actions were non-discriminatory and did not violate the State Policy.

Additionally, the appellant alleged that G.T. subjected her to retaliation because he filed a complaint with the Office of Law Enforcement Professional Standards (OLEPS) against her.<sup>1</sup> The EEO explains that, once OLEPS completed its investigation, the EEO reviewed G.T.'s complaint and the OLEPS determination of the aforementioned investigation, and no evidence was found to show that G.T. was aware of the appellant's EEO matter at the time he filed the complaint. In this regard, the EEO states that G.T. submitted the OLEPS complaint in May 2015, and he was not notified of the EEO complaint until October 2015. As such, the EEO did not find any evidence that G.T. was aware of the EEO complaint prior to October 2015. As such, the EEO states that there was no evidence that G.T. subjected the appellant to retaliation.

On appeal, the appellant maintains that she was subjected to a violation of the State Policy on the basis of gender. However, the appellant asserts that she cannot provide adequate arguments in this matter without access to the EEO's investigative materials. As such, it appears that the appellant is requesting a copy of the EEO's investigative materials. Moreover, the appellant argues that the EEO determination is erroneous as it appears that the wrong witnesses were interviewed.

Additionally, the appellant argues that the EEO did not properly investigate if G.T. was unaware of her pending EEO complaint, and as such, the EEO's assertion

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<sup>1</sup> The EEO conducted an investigation and initially informed the appellant in a November 30, 2015 letter that it was premature to consider the allegation at that time, as OLEPS was in the process of investigating G.T.'s allegations. The EEO explains that it also advised the appellant that it would review the matter once OLEPS had completed its investigation. As such, the EEO advised the appellant that the file would be closed and, if warranted, reopened upon completion of the OLEPS investigation.

that G.T. was unaware of the EEO complaint is not valid. In this regard, the appellant argues that the EEO only looked at dates and indicated that, since it did not notify G.T. of the EEO complaint until October 2015, he was unaware of it. The appellant contends that such a conclusion misunderstands her workplace and that nothing is confidential within the State Police.

In response, the EEO maintains that there was no violations of the State Policy. Specifically, the EEO asserts that the investigations did not substantiate that G.T. discriminated against her on the basis of gender, and did not show that he subjected the appellant to retaliation. It adds that G.T. denied that he treated the appellant differently than other Division Chiefs, and he denied that he purposely excluded her from meetings and communications. The EEO avers that G.T. explained that he had concerns about the appellant's ability to complete tasks within her unit, and he was concerned about ongoing work-related issues in her unit. In this regard, G.T. indicated that he held meetings with the appellant's employees to learn more about them, including their goals and responsibilities, and met with other employees in the Administrative section. Additionally, the EEO explains that G.T. indicated that employees in the appellant's unit reported significant problems including misconduct, and G.T. changed the appellant's unit's core hours because staff from the OAG's budget office stated that they could not contact anyone from the appellant's unit. The EEO asserts that G.T. also provided documentation showing that he received numerous e-mails from the OAG Grants and Budget Office regarding a significant backlog in F&GMB's processing of grants, late invoices, and a significant amount of unused grant funds. Moreover, the EEO states that such documents also confirm that OAG communicated to G.T. that the F&GMB unit did not respond to its inquiries.

In addition, the EEO interviewed four witnesses identified by the appellant, and none of them provided any evidence to corroborate her allegations. Specifically, the EEO asserts that the witnesses agreed that G.T. treated the appellant differently from other employees, but they did not know if it was because she was a woman or if it was because she was junior in rank. In this regard, the witnesses explained that G.T. treated individuals who make rank early in their career differently than those who had not, and G.T. believed that the appellant made Division Chief before her time. Further, the EEO confirms that a witness stated that G.T. commented that the appellant only "made Bureau Chief because she is female." The EEO adds that a male witness stated that G.T. treated the appellant badly, but he didn't know why and G.T. also treated him badly. Moreover, the EEO asserts that the witnesses agreed that there were personnel issues that existed in the F&GMB unit, and G.T. directly informed the appellant that he perceived that the F&GMB unit had problems which needed to be resolved.

## CONCLUSION

It is a violation of the State Policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories. *See N.J.A.C. 4A:7-3.1(a)3*. The protected categories include 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 heredity cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. *See N.J.A.C. 4A:7-3.1(a)*. Additionally, 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 opposes a discriminatory practice, is prohibited by this policy. *See N.J.A.C. 4A:7-3.1(h)*. For example, it is prohibited to impose or threaten to impose disciplinary action on an employee for reasons other than legitimate business reasons. *See N.J.A.C. 4A:7-3.1(h)4*.

Initially, it is noted that the appellant appears to request access to the investigation report prepared in relation to the instant matter. In light of the detailed submissions received from the parties, particularly the thorough and detailed summary of the investigation prepared by the appointing authority, the Civil Service Commission (Commission) does not find it necessary to compel production of the investigation report in this matter. The Commission is satisfied that the appellant has had a full opportunity to present evidence and arguments on her behalf, and the Commission has a complete record before it upon which to render a fair decision on the merits of the appellant's complaint. *See In the Matter of Juliann LoStocco, Department of Law and Public Safety, Docket No. A-0702-03T5* (App. Div. October 17, 2005); *In the Matter of Salvatore Maggio* (MSB, decided March 24, 2004).

The Commission has conducted a review of the record in the instant matter and is unable to determine if G.T. violated the State Policy. Specifically, although the EEO argues that G.T.'s behavior was work-related as a result of ongoing personnel and work-related issues that existed in the appellant's unit, and witnesses were unable to discern if G.T. was treating the appellant differently as a result of her gender, one witness stated that G.T. commented that the appellant "only made Bureau Chief because she is female" and believed "she made Division Chief before her time." As such, it is unclear from the record if the appellant's complaint, coupled with the witness statements indicating that G.T. referenced the appellant's gender pertaining to her position, should have led to the conclusion that G.T. violated the State Policy on the basis of his comments. Therefore, the Commission remands the matter pertaining to this comment back to the EEO to

further investigate this issue and determine whether or not G.T.'s actions violated the State Policy.

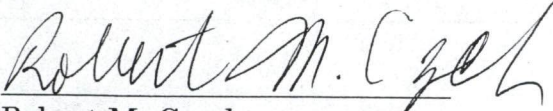
In regard to the appellant's arguments that she was retaliated against, the record reflects that G.T. was unaware of her EEO complaint when he filed the OLEPS complaint in May 2015, and he was not notified of the appellant's EEO complaint until October 2015. As such, she could not have been retaliated against as prohibited by the State Policy. The appellant has not provided any substantive information to refute the EEO's arguments, or any witness statements to show that she was subjected to retaliation. Other than her mere allegations, she did not provide any information to confirm that she was retaliated against or to specify precisely the alleged retaliatory actions taken against her.

### ORDER

Therefore, it is ordered that the matter concerning the witness statement as set forth above be remanded to the EEO for further investigation. It is further ordered that the retaliation 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 17<sup>th</sup> DAY OF MAY, 2017



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries

and

Correspondence

Director

Division of Appeals

& Regulatory Affairs

Civil Service Commission

Written Record Appeals Unit

P.O. Box 312

Trenton, New Jersey 08625-0312

c: S.S.  
George T. Daggett, Esq.  
Joanne Stipick  
Mamta Patel  
Records Center