



**STATE OF NEW JERSEY**

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

In the Matters of T.S, Department of  
Health

CSC Docket No. 2020-1303

Discrimination Appeal

**ISSUED:** May 1, 2020 (SLK)

T.S., a Clinical Psychologist 2 (CP2) with Ann Klein Forensic Center, Department of Health, appeals the decision of the Commissioner, which did not substantiate her allegation that she was subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, T.S., an Asian – Indian female, alleged that she was discriminated against based on color and retaliation. She alleged that P.P., Acting Director, a Caucasian male, and CP2 S.C., an Asian female, engaged in disparate treatment against her because she was the only person of color in the unit, P.P. retaliated against her due to prior allegations that T.S. made against S.C. of disparate treatment by accusing her of not submitting reports timely, P.P. retaliated against her by accusing her of not being in the office for sufficient amounts of time, and P.P. made a demeaning comment when he referred to H.N.’s, a foreign doctor, accent.

Regarding the allegation of disparate treatment based on color by P.P., T.S. alleged that CP2 H.C., a Caucasian female who started employment on the same date as T.S., was working independently while T.S. continued to receive extensive training and that she requested to be able to work independently, but was denied. Further, T.S. was excluded from training on “sanity evaluations” while others were trained or were receiving training on how to conduct them. The investigation

revealed that P.P. indicated that T.S.'s training time was extended because she had been out on leave and that she never inquired about "sanity training." Additionally, T.S. reported an incident where she got injured during a field visit at a jail and P.P. advised her that he was not sure how she should proceed. However, on that same day, H.C. got into a car accident and P.P. expressed concern for her. The investigation revealed that P.P. denied that he treated T.S. in a disparate manner due to her color. T.S. claimed that P.P. isolated her by having her assigned to an office adjacent to him, while all the other staff, which are Caucasian except for S.C., were assigned cubicles. P.P. denied that he isolated T.S. and stated that no cubicles were available upon T.S.'s arrival in the office. Further, he indicated that a Caucasian male employee also used that same space until he left the program, which then left T.S. by herself. Witnesses corroborated that there were no cubicles available to T.S. and denied that she was treated differently due to her color.

With respect to the allegation that S.C. treated T.S. differently based on her color, T.S. alleged that S.C. micromanaged her by contacting her by phone, text and e-mail outside of work hours while she did not do this for H.C. Further, T.S. alleged that S.C. pressed to supervise her when P.P. said it was no longer necessary and that she could work independently. The investigation revealed that S.C. denied the allegation and said that T.S.'s leaves of absence prolonged her training. Additionally, S.C. indicated that T.S.'s reports and interview skills needed improvement. Further, S.C. stated that she questioned T.S. about her work product and not because of the color of her skin. Moreover, a witness who was asked by P.P. to evaluate T.S.'s clinical work in order to determine if she was ready to work independently indicated that although there was nothing egregiously wrong about T.S.'s clinical work, she could use continued supervision.

T.S. claimed that P.P. retaliated against her because T.S. previously filed a discrimination complaint against S.C. by accusing T.S. of submitting late reports and sent e-mails to T.S. to conduct supervision or revisions of her reports and to ensure that she was in the office. T.S. also claimed that P.P. excluded her from program meetings while other staff members were informed by e-mail. The investigation revealed that P.P. said that T.S. was performing well, that he reviews all staff member reports and it was within his supervisory duty to ensure that reports were completed in a timely fashion. Additionally, witnesses denied that T.S. was excluded from meetings. T.S. also accused P.P. of retaliating against her by accusing T.S. of working a limited amount of time in the office, failing to work a seven-hour day, and working from home without approval. Further, T.S. asserted that P.P. instructed her to text him whenever she had extended interviews. The investigation revealed that P.P. said that he held T.S. to the same standard as other employees in the program. P.P. indicated that he did speak to T.S. about the seven-hour work day and her limited time in the office as he was concerned about her backlog of cases. T.S. also stated that P.P. and S.C. kept their office door ajar to listen to her arrival and departure from the office and that on several occasions the

time board inaccurately indicated that T.S. was “checked out” when other members were listed as “checked in.” However, there was no evidence to corroborate these allegations and witnesses denied that T.S. was treated differently based on color.

Finally, T.S. alleged that P.P. made a demeaning comment about H.N.’s foreign accent by stating, “At least I get to hear his accent.” T.S. indicated that she thought that H.N. may be being discriminated against because he has a dark complexion. The investigation revealed that P.P. indicated the comment was in reference to a Caucasian employee, when he said, “At least we don’t get to hear his accent.” P.P. explained that the comment referenced a prior Caucasian psychologist from Tennessee who talked with a Southern drawl and who talked at length about various topics after the subject was exhausted, which resulted in long meetings. Additionally, a witness who T.S. identified did not corroborate her allegations.

On appeal, T.S. presents that she began employment in January 2017 along with two other Caucasian females, H.C. and A.S. Thereafter, she took maternity leave in May 2017 and returned in October 2017. T.S. indicates that the Caucasian females began working independently after about three and one-half months in June 2017. When T.S. returned from leave, she continued in training status, which included supervised “ride alongs” from H.C. and S.C. and other staff psychologists. Also, at this time, H.C. and A.S. were assigned “sanity cases” under supervision. T.S. indicates that H.C. recommended in November 2017 and M.S., Director of Psychology and her supervisor, recommended in January 2018, that she work independently. She states that she was on family leave from January 16, 2018 to February 28, 2018 and M.S. recommended that she work independently on her return. Thereafter, M.S. retired and P.P. became the Director of the program. T.S. then took leave from March 15, 2018 until April 25, 2018 due to unforeseen circumstances and when she returned she continued in training status. T.S. states that she requested feedback on numerous occasions on what she needed to accomplish to be cleared to work independently, but she never received a response. T.S. provides that in June 2018, after a meeting with P.P., it was determined that she would work independently after one more supervised evaluation, which would be under S.C. However, P.P. then informed her that although she could conduct independent evaluations, he would continue to supervise her reports. However, T.S. claims that when H.C. and A.S. were cleared for independent evaluations they were completely removed from training status. In September 2018, P.P. indicated that he was going to sporadically review other psychologists’ reports while he continued to review all of her reports. Additionally, T.S. states P.P. did not provide any feedback on her clinical skills as he only corrected typos. T.S. presents that she was taken off training status on October 1, 2018.

T.S. believes that P.P. treated her differently based on color as she was in training far longer than the other psychologists, even if her leave time is considered. Further, she states that even after she was cleared to conduct independent

evaluations, P.P. completed an evaluation of an individual assigned to her on a separate date and said that it would be “interesting to compare notes.” T.S. found this demoralizing and undermined her status as a professional as P.P. had not done this for others. Additionally, this led to delays in her receiving discovery information that that was in P.P.’s possession which delayed her ability to complete reports and then led to accusations by P.P. that her reports were untimely. Further, while H.C. and A.S. have been assigned supervised “sanity evaluations,” which are required for her job, she has not been given this opportunity. With respect to P.P.’s response that he did not know how T.S. should proceed after she got injured at the jail, T.S. asserts that P.P. should have sought out the information. As far as her not having a cubicle, T.S. submits a picture to show that there was a wooden desk where a cubicle could have been set-up. Additionally, although D.B., a Caucasian male, did share office space with her for a brief time, he arrived many months after her.

T.S. contends that S.C.’s communication with her was intrusive and outside of her role as a clinical supervisor and she states that S.C. did not act this way with the other psychologists that she supervised, who were Caucasian. She presents that she was the only psychologist whose training was extended and S.C. never clarified why she felt that T.S. needed extended training. T.S. highlights that the witness’ statement indicating that she could use extended training was not included in the determination and complains that her program has no guidelines to adhere to regarding training status. Regarding the complaint that she filed against S.C., T.S. indicates that she was never informed as to what that investigation entailed. T.S. states that P.P. never spoke to her about her backlog of cases and she completed her cases timely unless there were unforeseen circumstances, which she says can be verified by support staff. Additionally, T.S. presents that reports were to be completed within four weeks of an evaluation and her log demonstrates that her reports were submitted timely unless there were unforeseen circumstances. After a court was inquiring about a competency evaluation, P.P. e-mailed her accusing her of submitting a late report. T.S. responded by indicating the dates that she submitted her reports for P.P. to review and she was waiting for P.P.’s approval in order to submit the reports to the court. Also, at the time P.P. started reviewing her reports, she was the only one whose reports were being reviewed by him. Further, while in September 2018 he started sporadically reviewing everyone’s reports, she was still the only one who P.P. reviewed every report. T.S. clarifies to indicate that she was excluded from informal meetings which took place in the office.

Concerning her time in the office and the seven-hour work day, T.S. presents that when she was initially hired, psychologists were allowed to complete work from home after field site visits. However, there was a change in policy which required non-field work to be completed in the office. However, there were times when she would go to an evaluation, and there was not enough or barely enough time for her

to return to the office without going over the seven-hour work day. This led to misunderstandings and P.P. never responded to her reply regarding this matter. Concerning P.P.'s and S.C.'s leaving their office door ajar to track when she was coming and going, T.S. states she is aware that this was directed towards her as it was corroborated by witnesses. In reference to P.P.'s statement about H.N.'s accent, she states that there was no indication during the meeting that this comment was about a prior psychologist. Additionally, while she was unsure if any other psychologists who were present at the meeting heard it, she offered the names of potential witnesses. T.S. requests that the policies and procedures of her program be reviewed to prevent future issues related to training status and independent practice and to ensure all psychologists are treated fairly and have specific requirements to fulfill training. She states that one psychologist's opinion should not allow for another psychologist's prolonged training. T.S. asserts that she is appalled by the lack of concern related to the mistreatment and discrimination that she has been subject to and hopes these matters may be addressed.

In response, the appointing authority states that T.S. describes work-related issues regarding S.C.'s supervision of her and S.C.'s evaluation regarding T.S.'s ability to conduct her duties independently. It asserts that these issues do not touch the State Policy. However, out of an abundance of caution, it trained S.C. on the State Policy and other policies in the workplace. Additionally, the matters were forwarded to Employee Relations. With respect to why T.S. was in training status longer than the other psychologists who started at the same time, the investigation revealed that her three leaves of absences contributed to her length of time on training. Additionally, S.C. stated that T.S. rarely worked in the office which was a major reason why she had not learned the job as quickly as other trainees. It was S.C.'s professional opinion that T.S.'s reports and interview skills needed improvement and she reported these observations to her superiors. S.C. also indicated that there was a Caucasian male doctor that was working in the program at the same time as T.S. who transferred out of the program because he could not adequately perform the required duties. Moreover, a witness opined that although there was nothing egregiously wrong about T.S.'s clinical work, she could benefit from continued supervision. Further, T.S.'s statement that there needs to be a quantifiable rating system measuring when one is ready to work independently is a work-related issue and does not mean that S.C. discriminated against her based on color.

With respect to T.S.'s claim that P.P. retaliated against her by accusing her of submitting late reports, P.P. indicated that he spoke to T.S. about her backlog of cases. P.P. also stated that he reviews all staff member reports in his supervisory capacity. Additionally, P.P. indicated that T.S. needed to take responsibility for timely completing reports and that T.S.'s lack of time in the office contributed to her delay. Therefore, the investigation revealed that the dispute over the timeliness of reports was a work-related issue. Also, S.C. questioned T.S. about being in the

office as she needed to discuss cases with her and T.S. was not as far along as others due to her leaves of absences. Further, P.P. indicated that T.S. was not excluded from meetings and H.C. indicated that T.S. was in meetings when she was in the office. Regarding training for “sanity evaluations,” P.P. indicated that T.S. was not excluded from them, but such cases were not as frequent. The investigation found that having T.S. trained on “sanity evaluations” was a work-related issue and there was no evidence she was being excluded based on her color. Additionally, T.S. admitted that she did not “broach the topic” herself regarding training for “sanity evaluations.”

Concerning assigning T.S. a cubicle, the investigation revealed that when she returned from leave there was not a cubicle available for her. Further, a Caucasian male was also assigned to the same workplace as T.S. because there were no cubicles available. Therefore, the investigation did not reveal that she was isolated based on her skin color. In reference to P.P.’s alleged comment about a foreign doctor’s accent during a meeting, P.P. denied making the comment and a witness that T.S. identified as being present at the meeting did not corroborate the allegation.

## CONCLUSION

*N.J.A.C.* 4A:7-3.1(a) states, in pertinent part, that employment discrimination or harassment based upon a protected category, such as color or national origin, is prohibited.

*N.J.A.C.* 4A:7:3.1(h) states, 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 opposes a discriminatory practice, is prohibited by this policy. No employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation.

*N.J.A.C.* 4A:7.3-2(m)4 states, in pertinent part, that the appellant shall have the burden of proof in all discrimination appeals.

In this matter, T.S. made a number of allegations claiming that she was discriminated against by P.P. and S.C. because of her color and she was retaliated against because of a prior discrimination claim that she filed against S.C. However, the investigation revealed that there were legitimate business reasons why she was treated in certain ways, such as her training being prolonged due to three leaves of absences, not being assigned “sanity evaluations” because fewer opportunities for them, and not being assigned a cubicle because there were not any available when

she returned from a leave of absence. Further, while T.S. may have disagreed with her superiors' management styles and their assessments that she still needed to be in training, 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). It is noted that the investigation revealed that another psychologist besides P.P. and S.C. agreed that T.S. could benefit from additional training. Further, none of the witnesses who T.S. presented to the investigator or other witnesses corroborated any of her allegations and she has not presented on appeal any statements from witnesses, any documents or any other evidence that P.P.'s or S.C.'s treatment of her was based on T.S.'s color or retaliation for T.S. previously filing a State Policy complaint against S.C. Mere allegations, without evidence, are insufficient to substantiate a violation of the State Policy. *See In the Matter of T.J.* (CSC, decided December 7, 2016). Moreover, T.S.'s comments about a lack of standards regarding training status and how the opinion of one psychologist should not prevent a psychologist from working independently is a work-related issue that does not touch the State Policy. Even if this is a legitimate concern, it does not demonstrate that her superiors were treating her differently based on her color or due to retaliation. Finally, there were no witnesses to corroborate T.S.'s allegation that P.P. made a discriminatory comment about a foreign doctor's accent.

### 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 29<sup>TH</sup> DAY OF APRIL, 2020



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