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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of A.R.,  
Department of Human Services

CSC Docket No. 2015-703

Discrimination Appeal

ISSUED: APR 07 2015 (DASV)

Dr. A.R., a Physician Specialist 1 with Ancora Psychiatric Hospital, Department of Human Services, appeals the attached determination of the Equal Employment Opportunity (EEO) Director, stating that the appellant failed to present sufficient evidence to support a finding that he had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

On March 29, 2010, the appellant, an Asian American, filed a letter of complaint alleging that in not initially appointing him as a Physician Specialist 1, Ancora Psychiatric Hospital discriminated against him based on his national origin, age, color, religion, and race.<sup>1</sup> In response, the appointing authority conducted an investigation, which did not corroborate the appellant's allegations. The appointing authority found that at the time the appellant was hired, he had not completed the required two years of clinical experience in his specialty after completion of his American Board residency. However, once the appellant satisfied the requirements, he was promoted to Physician Specialist 1 on December 29, 2001, when the position

<sup>1</sup> In 2009, the appellant filed a request for the Civil Service Commission (Commission) to correct his employment history concerning his title. He and three other physicians then presented additional claims in 2010, alleging that Caucasian physicians as opposed to physicians of Indian descent were appointed to the higher unclassified title of Physician Specialist 1. By letter dated April 7, 2010, the matter was referred to the Department of Human Services' Office of Equal Employment Opportunity for review and determination, as the Commission may only review appeals of the final determination of the agency head or designee. See *N.J.A.C. 4A:7-3.2(m)*.

became available.<sup>2</sup> Therefore, the appointing authority did not find a violation of the State Policy.

On appeal, the appellant disagrees with the appointing authority's determination, maintaining that he met "all the laid down criterion" set by the Commission for a position as a Physician Specialist 1 at the time of his initial hire. He submits a copy of the Physician Specialist 1 job specification and states that there is no "written stipulation" that the required two years of experience was mandatory after three years of residency training. The appellant states that he has two years of training with a doctoral degree in General Medicine and one year of subspecialty training with a diploma in Cardiology from the University of Calcutta. The appellant presents a copy of his doctoral degree and diploma, which were issued in 1984 and 1982, respectively. He emphasizes that he was already a physician when he immigrated to the United States from India and needed only to pass the required examinations and receive training for Board Certification. As a remedy, he requests a retroactive date of appointment to Physician Specialist 1 as of the date of his appointment to Physician 1. In support of his appeal, he submits, among other things, copies of his certification of completion in a residency program accredited by the Accreditation Counsel for Graduate Medical Education in the specialty of medicine with the Kingsbrook Jewish Medical Center in New York from July 1, 1996 to June 30, 1999; his New Jersey medical license issued on August 25, 1999; and his Board Certification in Internal Medicine from 1999 through 2009.

In response, the appointing authority relies on its June 30, 2014 determination, indicating that the investigation of the appellant's complaint found non-discriminatory reasons for the actions taken by Ancora Psychiatric Hospital. It contends that the appellant fails to contest its conclusion or add any information that would impact the decision that no State Policy violation was found. In that regard, the appointing authority states that the appellant's "argument is a technical one that has nothing to do with discrimination."

It is noted that pursuant to the job specification, a Physician Specialist 1 must meet the following requirements: "[c]ompletion of [a] medical internship or equivalent; licensure to practice medicine in the State of New Jersey; three (3) years of approved specialty training; certification or eligibility for certification by the American Board of the specialty; demonstrated competence in hospital practice; Credentials Committee or equivalent recommendation; and approval by the Central Office Board of Professional Standards." The incumbent must also possess "[t]wo (2) years of clinical experience in the practice of the clinical specialty."

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<sup>2</sup> Agency records indicate that the appellant was first appointed as a Physician 1, effective November 6, 2000, and then appointed to Physician Specialist 1 effective December 29, 2001. These titles are allocated to the unclassified service.

## 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. Moreover, the appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)4.

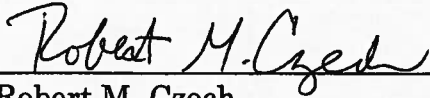
The Commission has conducted a review of the record and finds that an adequate investigation of the appellant's discrimination complaint was conducted and no discrimination was found. Apart from his initial assertions in his complaint, the appellant does not provide any convincing evidence on appeal that he was discriminated against in violation of the State Policy. Rather, the investigation of the appellant's complaint revealed a legitimate non-discriminatory basis for the appellant's initial appointment to Physician 1. In that regard, the Commission notes that the job requirements as set forth in the Physician Specialist 1 job specification are construed to mean that an individual must possess two years of clinical experience in the practice of the clinical specialty following an approved residency program. Although the appellant may have already been a physician, he did not complete an accredited residency program to practice medicine in the United States until June 30, 1999. Therefore, when he was appointed on November 6, 2000, he did not have the required two years of experience for a Physician Specialist 1 position. Even assuming that he met the experience requirement, there is nothing in the record which demonstrates that the reasons for the appellant's original non-appointment to that title were due to his national origin, age, color, religion, or race in violation of the State Policy. In this regard, assuming, *arguedo*, that the appointing authority misapplied the criteria for appointment to the Physician Specialist 1 title, there is no evidence that such an error would have been used as a pretense to discriminate against the appellant based on his membership in a protected category. Therefore, under these circumstances, the appellant has failed to meet his burden of proof. *See N.J.A.C.* 4A:7-3.2(m)4.

## 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 1<sup>ST</sup> DAY OF APRIL, 2015



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and  
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Attachment

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