



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Eric Handelman,
Department of Transportation

CSC Docket No. 2015-2620

Minor Discipline Appeal

ISSUED: **JUN 23 2015** (EG)

Eric Handelman, an Executive Assistant 1 with the Department of Transportation, appeals a five working day suspension issued by the Department of Transportation.

The record reflects that the appellant was served with a Preliminary Notice of Disciplinary Action (PNDA) proposing a 10 working day suspension for neglect of duty and insubordination. Specifically, the appointing authority asserted that on October 9, 2013, after the appellant had transferred to another Bureau, it was discovered that he had left a significant amount of work incomplete that he had not brought to the attention of his supervisor. Additionally, it asserted that the appellant was insubordinate when he failed to provide ethics training to new hires, and failed to complete the processing of Employee's Certification of Outside Employment or Activities forms he received prior to his transfer. A departmental hearing was conducted and the hearing officer upheld the charge of neglect of duty but did not find sufficient cause for a finding of insubordination. Consequently, the hearing officer determined that a five working day suspension was the appropriate penalty.

On appeal to the Civil Service Commission (Commission), the appellant argues that the appointing authority failed to follow its own disciplinary policy when it failed to provide him any notice of allegations or the right to be heard prior to imposing preliminary discipline. The appellant contends that rather than contacting him about the alleged incomplete work, his supervisor, Inspector General

Johanna Jones, spent five months photographing stacks of paper and directing her subordinates to prepare lists of names of employees. Additionally, the appellant asserts that the appointing authority willfully delayed in responding to his discovery request and unjustifiably denied his discovery request. Further, the appellant claims that the appointing authority raised new allegations at the departmental hearing that were not contained in any of the three versions of the amended PNDA. In this regard, the appellant argues that the appointing authority raised allegations of neglect of duty prior to the October 9, 2013 date which was not listed on the PNDA. Moreover, the appellant argues that Jones' testimony of the existence of incomplete forms was not based on legally sufficient evidence and could not be relied upon to sustain the charge of neglect of duty. The appellant argues that the hearing officer concluded that incomplete forms existed based upon Jones' testimony to that effect but he was denied a review of these forms and the forms were not placed into evidence. Rather, the appointing authority only introduced a list of names of employees and a picture of a 15 inch stack of documents.

The appointing authority, despite being provided the opportunity, did not submit any argument or evidence for the Commission to review.

CONCLUSION

N.J.A.C. 4A:2-3.7(a) provides that minor discipline may be appealed to the Commission. The rule further provides, in pertinent part:

1. The [Commission] shall review the appeal upon a written record . . . and determine if the appeal presents issues of general applicability in the interpretation of law, rule or policy. If such issues or evidence are not fully presented, the appeal may be dismissed and the [Commission's] decision will be a final administrative decision.

This standard is in keeping with the established grievance and minor disciplinary procedure policy that such actions should terminate at the departmental level.

Moreover, in considering minor discipline actions, the Commission generally defers to the judgment of the appointing authority as the responsibility for the development and implementation of performance standards, policies and procedures is entrusted by statute to the appointing authority. Moreover, the Commission will not disturb hearing officer credibility judgments in minor discipline proceedings unless there is substantial credible evidence that such judgments and conclusions were motivated by invidious discrimination considerations such as age, race or gender bias or were in violation of Civil Service rules. *See e.g., In the Matter of Oveston Cox* (CSC, decided February 24, 2010). A review of the record evidences no showing that either factor, which would warrant further Commission review, is

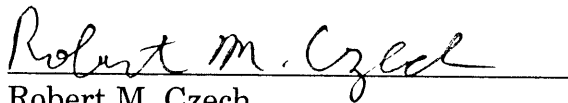
present in this case. The hearing officer in the present matter found sufficient evidence of neglect duty in both failing to give new employees sufficient ethics training and failure to fully process forms. The hearing officer found that the appellant had a duty to be proactive to ensure compliance with ethics training. Further, the hearing officer was in agreement with the appellant that the forms should have been provided in discovery. However, he found that the forms did exist and relied on the testimony of Jones, who indicated that forms were not completely processed as required. Therefore, based on this record, the appellant has not established an abuse by the appointing authority of its discretion in this disciplinary case. Accordingly, no further review will be conducted by the Commission.

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 17TH DAY OF JUNE, 2015



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