



STATE OF NEW JERSEY

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

In the Matter of T.F.,
Department of Corrections

CSC Docket No. 2024-148

Discrimination Appeal

ISSUED: February 7, 2024 **(KAG)**

T.F., a Senior Correctional Police Officer with the Department of Corrections, appeals the determination of the Director, Equal Employment Division and Ethics Unit (EED), that her allegations do not implicate the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

The appellant, a female, submitted a complaint on June 26, 2023, alleging that she was subjected to disparate treatment based on her gender by J.M., a male Correctional Police Lieutenant. Specifically, the appellant alleged that she was assigned to deliver classification folders for three new inmates to Northern State Prison. She approached the Center Control Window and knocked in order to garner the attention of staff to deliver the folders. Upon receiving no response, she knocked a second time, at which time the appellant claimed that J.M. exclaimed “I don’t know who SHE thinks SHE is! Yes you . . . I saw you there. SHE must be out of her mind if SHE thinks I am going to get up out of my chair for HER and see what SHE wants.”

The EED reviewed the appellant’s complaint and found that her allegations did not implicate the State Policy, as there was no sufficient nexus between the alleged conduct and membership in any protected category. As such, the EED declined to open an investigation into the matter.

On appeal, the appellant reiterates her allegations and maintains that the fact that J.M. used the pronouns “she” and “her” in his comments demonstrates that his behavior was gender based. The appellant maintains that J.M. treated her less

favorably than her male peer. She notes that the officer whose responsibility was to receive the file was not reprimanded by J.M. She argues that J.M.'s comments were unnecessary, degrading, and "questioned [her] mental health." The appellant also questions whether the EED condones such behavior.

In response, the EED contends that T.F. has not demonstrated that its determination that her complaint did not implicate the State Policy was arbitrary, capricious, or unreasonable, and it maintains that the determination was wholly supported by the evidence.

CONCLUSION

N.J.A.C. 4A:7-3.1(a) provides, in pertinent part, that the State is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon gender will not be tolerated. *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. The appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)(4).

The Civil Service Commission (Commission) has conducted a review of the record in this matter and finds that the appellant has not established a sufficient nexus between J.M.'s conduct and a protected category to warrant an investigation. In other words, the appellant has not presented that J.M.'s statements implicated the State Policy. In this regard, the appellant claims that J.M.'s use of the pronouns "she" and "her" establishes that his comments were directed at her based on her gender. However, the use of pronouns to reference an individual's gender or gender identity is common practice, which, in and of itself, does not equate to discrimination based on one's membership in a protected category. Moreover, even if the appellant's version of the event was taken as fact, the Commission does not find that the State Policy was violated. J.M.'s remarks did not include derogatory references to the appellant's gender nor demonstrate that she was treated less favorably than a male would have been in the same situation. Rather, J.M. was clearly perturbed with the appellant for knocking at the widow. It is emphasized that the Commission does not condone J.M.'s statements if in fact uttered. However, unprofessional behavior or 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). As such, J.M.'s statements do not rise to the level of implicating the State Policy based on gender or other protected category.¹ *See e.g., In the Matter of G.M.* (CSC, decided July 16, 2014) (An

¹ The Commission does not find that J.M.'s alleged remarks "questioned [the appellant's] mental health" or a disability in the context that the appellant presents that would implicate or violate the


investigation cannot be conducted under the State Policy nor can a violation of the State Policy be found if a protected category is not claimed as the basis for the alleged actions and employee must assert, at a minimum, that alleged actions were motivated by his or her status in a protected category). Accordingly, the appellant has not satisfied her burden of proof in this matter.

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 7TH DAY OF FEBRUARY, 2024



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State Policy. Such statements, if uttered, appear to have been made out of frustration with the appellant.