

Filed: May 25, 2023

State of Louisiana
Civil Service Commission

Docket No. S-18886

Amanda Perry

Versus

Louisiana Department of Hospitals, Office of Public Health

Rule(s): 9.1; 13.10; 13.11

Topic(s): Right of appeal; probational appointment

Appearances: Kourtney L. Kech, counsel for Amanda Perry
Krystal Airs-Brown, on behalf of LDH-OPH

Statement of the Appeal

Amanda Perry was employed by the Louisiana Department of Hospitals-Office of Public Health ("LDH") as a Program Manager 3. She was serving with probationary status. On April 6, 2023, LDH notified Ms. Perry of her separation from employment.

On May 3, 2023, Ms. Perry appealed her separation. In her appeal, she contends that she was separated without cause, and that her separation was the result of prohibited discrimination due to her religion; Christian, and her political beliefs. As relief, Ms. Perry requests reinstatement to another department, back wages, and attorney's fees.

On May 4, 2023, I issued a notice questioning whether Ms. Perry had established a right of appeal to the Commission. She was given fifteen (15) calendar days to amend her appeal and/or show cause in writing why it should not be summarily dismissed.

I received a response from Ms. Perry's counsel on May 19, 2023. The response essentially reiterates the assertions in the original appeal, which are that:

1. Ms. Perry was separated due to comments made to a "non-binary" subordinate concerning the use of gender-neutral pronouns and rejecting the subordinate's suggestions to refer to breastfeeding mothers as "lactating parents" for a new LDH poster regarding the rights of breastfeeding mothers under the federal PUMP Act signed into law in December 2022.

2. The subordinate filed a grievance complaining about Ms. Perry after being told to use “breastfeeding” instead of “chestfeeding” and “mother” instead of “parent”. The grievance raised issues from several months before the poster incident;
3. Ms. Perry was discriminated against based upon her political beliefs because she was separated after remarking that the Governor “had got it right” regarding signing the Louisiana abortion ban into law.

Based on a review of the record and pursuant to Article X, § 12(A) of the Louisiana Constitution of 1974, I reach the following conclusions.

Discussion and Conclusions of Law

Ms. Perry was a probationary employee. As such she was subject to separation from her position at any time, without legal cause, and had no property right to her job. *Murray v. Department of Revenue and Taxation*, 504 So.2d 561 (La. App. 1st Cir. 1986); *Maurello v. Department of Health and Human Resources, Office of Management and Finance*, 510 So.2d 458 (La. App. 1st Cir. 1987); *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 105 S. Ct. 1487, 84 L.Ed.2d 494 (1985). Therefore, Ms. Perry’s appeal rights are more limited than those of classified employees with permanent status.

As a probationary employee, Ms. Perry only has a right of appeal to the Commission if she alleges that she has been adversely affected by the violation of the Civil Service Rules or Article, or that she has been discriminated against because of her religious or political beliefs, sex or race. Civil Service Rule 13.10; *Louisiana Department of Agriculture and Forestry v. Sumrall*, 98-1587 (La. 3/2/99); 728 So.2d 1254.

Civil Service Rule 13.11(d) sets forth the requirements to adequately plead discrimination:

A notice of appeal must:

(d) Contain a clear and concise statement of the actions complained against and a clear and concise statement of the basis of the appeal. Where discrimination is alleged to be a basis for appeal, specific facts supporting the conclusion of discrimination must be alleged in detail. The specific facts required will vary depending on the nature of the appeal; however, the facts must be alleged in sufficient detail to enable the agency to prepare a defense. A conclusion of discrimination is not sufficient. The types of facts which must be included are:

1. the date, time and place the discriminatory action took place;
2. the name of the person or agency alleged to have taken the discriminatory action;
3. a description of how appellant's action, conduct or performance was the same as that of other persons who were treated differently;
4. the names of other persons treated differently and the dates the different treatment occurred;

5. a description of events, including the dates and circumstances thereof, which led appellant to believe that the adverse decision was based on his religious or political beliefs, sex, race, or any other non-merit factor.

Ms. Perry asserts she was discriminated against due to her religion, and points only to her discussion with a “non-binary” subordinate regarding the wording of the PUMP poster. She has not shown that any other employees who were in the same or similar circumstances, but were not Christians were treated differently than she was. Further, her opposition to abortion, while it may be rooted in her religious beliefs, does not, standing alone, prove discrimination, for the same reason.

Ms. Perry’s comments that the Governor “got it right” do not show prohibited discrimination based upon her political affiliation. This was simply a statement of agreement with a law signed by a sitting Governor; not a statement that is or may be attributed to a particular political party or affiliation. Further, she has not shown that any other employee who made a similar comment was treated differently than she was.

Despite being given an opportunity to do so, Ms. Perry failed to allege sufficient specific facts supporting a conclusion that a LDH discriminated against her based on her religious or political beliefs. Therefore, she has not established a right of appeal to the Commission.

Accordingly, this appeal is hereby summarily dismissed.

/s/ Martha K. Mansfield
Martha K. Mansfield
Civil Service Commission
Chief Referee