

STATE OF NEW JERSEY
MERIT SYSTEM BOARD
AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of	:	
	:	
SHEILA GRAFTON,	:	
	:	
Appellant,	:	JOINT ORDER
	:	ON CONSOLIDATION AND
v.	:	PREDOMINANT INTEREST
	:	
STATE OF NEW JERSEY, (DEPARTMENT	:	
OF HUMAN SERVICES),	:	
	:	OAL Docket No. CSV 5028-94
Respondent.	:	
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STATE OF NEW JERSEY (DEPARTMENT	:	
OF HUMAN SERVICES),	:	
	:	
Respondent,	:	
	:	
-and-	:	PERC Docket No. CO-H-95-23
	:	
COMMUNICATIONS WORKERS OF	:	
AMERICA, AFL-CIO	:	
	:	
Charging Party.	:	
	:	

SYNOPSIS

The Chairman of the Public Employment Relations Commission, in a joint order with the Commissioner of Personnel, finds that an unfair practice charge filed by the Communications Workers of America against the State of New Jersey (Department of Human Services) should be consolidated with an appeal to the Merit System Board filed by Sheila Grafton against the State. The Administrative Law Judge will offer recommended findings of fact and conclusions of law to both the Commission and the Merit System Board, disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a). PERC will then determine whether Grafton engaged in activity protected under the New Jersey Employer-Employee Relations Act and whether that activity, if protected, was a substantial or motivating factor in her termination. The Merit System Board will then determine whether Grafton's termination was for legitimate business reasons and was otherwise warranted under merit system law. Where appropriate, the matter will be returned to PERC for its consideration of whether specialized relief is warranted under its Act.

STATE OF NEW JERSEY
MERIT SYSTEM BOARD
AND
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of
SHEILA GRAFTON,

Appellant,

v.

STATE OF NEW JERSEY, (DEPARTMENT
OF HUMAN SERVICES),

Respondent.

JOINT ORDER
ON CONSOLIDATION AND
PREDOMINANT INTEREST

OAL Docket No. CSV 5028-94

STATE OF NEW JERSEY (DEPARTMENT
OF HUMAN SERVICES),

Respondent,

-and-

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO

Charging Party.

PERC Docket No. CO-H-95-23

Appearances:

For the Respondent, Deborah T. Poritz, Attorney General
(Mary Cupo-Cruz, Senior Deputy Attorney General;
Meredith Van Pelt, Deputy Attorney General)

For the Appellant-Charging Party, Weissman & Mintz,
attorneys (Steven P. Weissman, of counsel)

Sheila Grafton was terminated from her position as an Auditor I in the Department of Human Services of the State of New Jersey on grounds of threatening fellow employees on state property and conduct unbecoming a public employee. Grafton requested a hearing

before the Merit System Board and the matter was transmitted to the Office of Administrative Law for determination as a contested case. In addition, the Communications Workers of America, AFL-CIO filed an unfair practice charge with the Public Employment Relations Commission alleging that Grafton was fired in retaliation for her protected activity in serving as a shop steward, organizing employees, filing grievances, and protesting alleged sexual harassment and favoritism.

Administrative Law Judge Beatrice S. Tylutki issued an order consolidating these matters, directing that an Administrative Law Judge be assigned to hear the case, designating the Merit System Board as having the predominant interest, and directing that the matter first be considered by the Commission and then by the Board. CWA has filed exceptions nunc pro tunc asserting that neither agency should be found to have the predominant interest and a Commission Hearing Examiner should be appointed as a Special Administrative Law Judge to hear this case.

Having considered the record and the Administrative Law Judge's order, and having made an independent evaluation of the record, the Merit System Board at its meeting on March 21, 1995 and the Chairman of the Public Employment Relations Commission, acting pursuant to authority granted to him by the full Commission, on March 16, 1995, made the following determination in this matter.

ORDER

The above matters are consolidated for hearing before an Administrative Law Judge

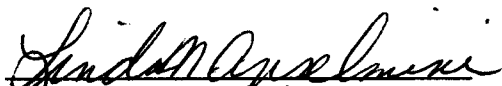
The Administrative Law Judge will first offer recommended findings of fact and conclusions of law to both the Public Employment Relations Commission and the Merit System Board, disposing of all issues in controversy through a single initial decision under N.J.A.C. 1:1-18.3 and consistent with N.J.A.C. 1:1-17.8(a); and

Upon transmittal of the initial decision to both agencies, the underlying record will be forwarded to the Commission to determine whether Grafton engaged in activity protected under the New Jersey Employer-Employee Relations Act and whether that activity, if protected, was a substantial or motivating factor in her termination; and

The Commission's decision and the complete record will then be sent to the Merit System Board which will then determine whether Grafton's termination was for legitimate business reasons and was otherwise warranted under merit system law; and

Where appropriate, the matter will then be returned to the Commission for its consideration of whether specialized relief is warranted under its Act.

DECISION RENDERED BY THE
MERIT SYSTEM BOARD ON
MARCH 21, 1995


Linda Anselmini
Commissioner

DATED: Trenton, New Jersey
March 21, 1995

DECISION RENDERED BY THE CHAIRMAN
OF THE PUBLIC EMPLOYMENT RELATIONS
COMMISSION ON MARCH 16, 1995


James W. Mastriani
Chairman

DATED: Trenton, New Jersey
March 16, 1995