

P.E.R.C. NO. 2016-90

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION
AND
CIVIL SERVICE COMMISSION

In the Matter of

ARTI SAHNI,

Appellant,

-and-

OAL Docket No. CSV 15050-14
Agency Docket No. 2015-1296

TOWNSHIP OF EWING,

Respondent.

CWA LOCAL 1032,

Charging Party,

-and-

PERC Docket No. CO-2015-024

TOWNSHIP OF EWING,

Respondent.

Appearances:

For the Respondent, Hill Wallack, LLC, attorneys (Rocky Peterson, of counsel)

For the Appellant/Charging Party, Weissman & Mintz, attorneys (Jason L. Jones, of counsel)

DECISION

Appellant Arti Sahni filed an appeal with the Civil Service Commission (CSC) from a determination of the Ewing Township Department of Administration, Finance and Public Works, to terminate her employment. Communications Workers of America, Local 1032 filed an unfair practice charge with the Public

Employment Relations Commission (PERC) alleging that Sahni was terminated in violation of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. The CSC appeal was transmitted to the Office of Administrative Law (OAL) for hearing and a Complaint on the unfair practice charge was issued by the PERC Director of Unfair Practices on the allegations that the employer violated N.J.S.A. 34:13A-5.4a (1) and (3).^{1/}

On October 30, 2015, the Township requested that the PERC and CSC matters be consolidated. After independently evaluating the record and considering the ALJ's Order, the Chair of the CSC, acting pursuant to his authority under N.J.A.C. 4A:1-3.2(b)3 and the Chair of PERC, acting pursuant to the authority delegated to her by the full Commission, on January 13, 2016, determined that the two cases should be consolidated consistent with our approach in similar cases. PERC's unfair practice jurisdiction is exclusive. PERC shall have the predominant interest and the case should be processed in accordance with the following:

^{1/} These provisions prohibit public employers, their representatives or agents from: "1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act. . . [and] (3) Discriminating in regard to hire or tenure of employment or any term and condition of employment to encourage or discourage employees in the exercise of the rights guaranteed to them by this act."

JOINT ORDER

The Civil Service Commission appeal and the Public Employment Relations Commission unfair practice complaint are consolidated for hearing before the ALJ. The ALJ will first offer recommended findings of fact and conclusions of law to both PERC and the CSC disposing of all issues in controversy through a single initial decision under 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 PERC to determine whether Sahni engaged in protected activity under the New Jersey Employer-Employee Relations Act and whether that activity, if protected, was a substantial or motivating factor in the termination; and

PERC's decision and the complete record will then be sent to the CSC which will then determine whether the disciplinary action was for legitimate business reasons and was otherwise warranted under the Civil Service laws; and

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

DECISION RENDERED BY THE CIVIL
SERVICE COMMISSION ON

Robert M. Czech 4/14/16
Robert M. Czech, Chairperson
Civil Service Commission

DECISION RENDERED BY THE
PUBLIC EMPLOYMENT RELATIONS
COMMISSION ON JANUARY 13, 2016

P. Kelly Hatfield
P. Kelly Hatfield, Chair
Public Employment Relations
Commission