U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Federal Operations
P.O. Box 77960
Washington, DC 20013

[redacted]
Shila V.,[1]
Complainant,

v.

Louis DeJoy,
Postmaster General,
United States Postal Service
(Field Areas and Regions),
Agency.

Request No. 2024005198

Appeal No. 2024002690

Agency No. 4J-440-0041-24

DECISION ON REQUEST FOR RECONSIDERATION

Complainant requested that the Equal Employment Opportunity Commission (EEOC or Commission) reconsider its decision in Shila V. v. U.S. Postal Serv., EEOC Appeal No. 2024002690 (Sept. 9, 2024).

ISSUE PRESENTED

Whether Complainant's request for reconsideration of EEOC Appeal No. 2024002690 meets the criteria detailed in 29 C.F.R. § 1614.405(c).

[1] This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Postal Support Employee (Mail Processing Clerk) at the Agency's Mansfield Post Office in Mansfield, Ohio.

On February 23, 2024, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination on the bases of race (Black), color (black), and sex (female) when, on October 25, 2023, she became aware that coworkers in 2018, 2019, and possible subsequent dates were converted to regular without passing the required training and tests.

The Agency ultimately dismissed the claim pursuant to 29 C.F.R. § 1614.107(a)(2) for untimely EEO contact. In dismissing the claim, the Agency applied the doctrine of laches, as the Agency found that Complainant failed to act with diligence to pursue her claim.

Complainant appealed this decision to the Commission, arguing the 45-day deadline should be waived or extended since she only became aware of the alleged events in October 2023. Complainant asserted that she filed in a timely manner afterwards. The Agency opposed Complainant's appeal.

In EEOC Appeal No. 2024002690 (Sept. 9, 2024), the Commission found that Complainant presented no persuasive arguments or evidence warranting an extension of the time limit for initiating EEO contact. In affirming the Agency's final decision, the Commission emphasized that the EEO Counselor's Report indicated that Complainant alleged that on unspecified dates in 2018, she failed window training and had to go to the bottom of the list or be released, and after her conversion in 2019, she became aware that all Caucasians were converted and did not pass the proper training. As the record showed that Complainant did not initiate EEO contact until December 4, 2023, the Commission agreed with the Agency that the claim was untimely raised and barred under the doctrine of laches.

The instant request followed.

CONTENTIONS ON REQUEST

In requesting reconsideration, Complainant reiterates that she became aware of the alleged discrimination in 2023 and subsequently initiated EEO contact in a timely manner.

She also alleges, for the first time, that the EEO Counselor had a conflict of interest because she was friends with "most of the employees" senior to Complainant. Complainant accuses the EEO Counselor of misrepresenting her claim by providing unspecified "faulty" information.

STANDARD OF REVIEW

EEOC regulations provide that the Commission may, in its discretion, grant a request to reconsider any previous Commission decision issued pursuant to 29 C.F.R. § 1614.405(a), where the requesting party demonstrates that: (1) the appellate decision involved a clearly erroneous interpretation of material fact or law; or (2) the appellate decision will have a substantial impact on the policies, practices, or operations of the agency. See 29 C.F.R. § 1614.405(c).

ANALYSIS

We have reviewed the various arguments raised by Complainant in the instant request for reconsideration. However, we can find no basis to disturb the Commission's prior decision, as Complainant's contention that she became aware of the alleged discrimination in 2023 was previously raised and rejected in the initial appeal. While Complainant also argues, for the first time, that the EEO Counselor had a conflict of interest and misrepresented her claim, we note that Complainant did not raise this contention on appeal.

We emphasize that a request for reconsideration is not a second appeal. Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), Chap. 9 § VI.A (Aug. 5, 2015); see, e.g., Lopez v. Dep't of Agric., EEOC Request No. 0520070736 (Aug. 20, 2007). Rather, a reconsideration request is an opportunity to demonstrate that the appellate decision involved a clearly erroneous interpretation of material fact or law, or will have a substantial impact on the policies, practices, or operations of the Agency. Complainant has not done so here.

CONCLUSION

After reviewing the previous decision and the entire record, the Commission finds that the request fails to meet the criteria of 29 C.F.R. § 1614.405(c), and it is the decision of the Commission to deny the request. The decision in EEOC Appeal No. 2024002690 remains the Commission's decision. There is no further right of administrative appeal on the decision of the Commission on this request.

COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (P0124)

This decision of the Commission is final, and there is no further right of administrative appeal from the Commission's decision. You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by their full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work.

RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests. Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:



Carlton M. Hadden, Director
Office of Federal Operations

November 25, 2024
Date