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WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re)
JOY HORTON,)
Complainant.)

Joy Horton ("Complainant") brings this complaint against the Clerk of the Court, United States District Court, Western District of Washington in Seattle and employees of the Clerk's Office under the Judiciary Equal Employment Opportunity Plan.[1] Upon discovering her disability, Complainant asserts that the Clerk's Office failed to accommodate or to transfer her to another federal position. Because the complaint was filed against Bruce Rifkin who is the Clerk of the Court and the Equal Employment Opportunity Coordinator, this matter is presently before the Honorable Carolyn R. Dimmick, Chief Judge.

FACTS

Joy Horton, having been selected from a pool of employees of overstaffed courts, transferred from the United States Bankruptcy Court, Middle District of Pennsylvania, to the United

[1] Complainant is not represented by an attorney, but lists Edward D. Campbell, Esq. as a consultant.

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States District Court, Western District of Washington, in Seattle.[2] Complainant was employed as a Jury/Financial Assistant.

The record reflects Ms. Horton did not respond adequately to the training offered and was unable to perform the functions required of the position. Complainant was informed of her unsatisfactory performance on June 15, 1994, and in lieu of termination, she was placed on administrative leave until the results of her previously scheduled physical and psychological tests became available.

The pertinent findings from Ms. Horton's neuropsychological tests were reported as follows:

> At this point, [Ms. Horton] does not learn very quickly through reading or listening. The difficulties she exhibits are certain to interfere with job performance, particularly when she has to adapt to new situations, rules, and people. Her difficulties with immediate memory and attention undoubtedly cause her to appear less capable than she actually is. If a job situation places demands on her areas of weakness, she is at serious risk of failure. . . . It is recommended that she be considered for disability or receive job rehabilitation training commensurate with her slow processing of information and the ability patterns described above.

Based on these test results, an Agency Certification of Reassignment and Accommodation Efforts Report dated August 12, 1994 was filed by Bruce Rifkin as Clerk of the Court, concluding that:

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[2] Under the equalization plan, Ms. Horton was awarded $4,089 bonus to offset moving expenses and cost of living increase. The amount is determined by a percentage of Complainant's salary. The Clerk's Office is not requesting a return of this bonus.

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Ms. Horton's neuropsychological abnormalities would affect her ability to successfully learn and perform in <u>any</u> position in the Clerk's office. There is no reason to believe that her training experience for any position would be any more successful than the six weeks of training she received for the Jury/Financial backup position. There are no vacant positions in Seattle with the same grade and tenure as the position Ms. Horton held.

In bringing this complaint against the Clerk's Office, Complainant asserts that she was "refused rehabilitative/ vocational retraining or a possible solution to continue my federal service". Complainant is seeking:

(1) Reinstatement of her position with rehabilitative/ vocational training and back pay to 7/8/94, plus costs and legal fees, or

(2) Reinstatement in another federal service position with back pay to 7/8/94, plus costs and legal fees.

The Respondent argues that:

(1) "[U]nknown to us at the time of her hiring, Joy is learning disabled and her impairments fall squarely into the kind of work required by this position."

(2) The Jury/Financial Assistant position requires the ability to scan large numbers of juror qualification forms and the ability to work with numbers.

(3) John Sweeney's staff trained Complainant for six weeks following the training approach provided by the Federal Judicial Center ("FJC").

(4) "The training provided to Joy involved reading and listening, followed by actual doing, with close monitoring and follow-up".[3]

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[3]As the trainers in the Clerk's Office are unprepared to train the learning disabled, the Court Education Division of the FJC was contacted to investigate additional resources for specialized training for Complainant. It was found that the FJC does not provide the individual, or remedial training, Ms. Horton would need.

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(5) The specialized rehabilitative training the Complainant requires, is not "a resource the judiciary possesses, nor is this a service the judiciary is required to provide."

FINDINGS AND CONCLUSIONS

Having considered the materials presented by the parties, including the results of the neuropsychological tests, and having determined that a hearing is unnecessary, the Court finds and concludes that:

1. Complainant has learning disabilities that impacted her ability to be trained and function in the Jury/Financial Assistant position;

2. Complainant had been given sufficient training that would normally prepare an employee to function as a Jury/Financial Assistant;

3. The neuropsychological tests reveal Complainant's disability is such that further training as a Jury/Financial Assistant would be unsuccessful;

4. Complainant's "inability to learn very quickly through reading and listening" and difficulty in processing numbers would impact any Clerk's Office position;

5. To place Complainant in another federal position that requires reading, listening, and normal processing of information would ensure probable failure;

6. On June 15, 1994, Complainant was placed on administrative leave to await the results of prescheduled tests;

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7. On July 10, 1994, Complainant was placed on sick leave to afford her time to apply for disability;

8. On August 14, 1994, Complainant was given the option of being terminated or delaying termination and remaining as a judiciary employee until such time as a decision was made on her application for disability;

9. Complainant chose to await the disability determination and by using her sick and annual leave, has received full pay since the date she was placed on administrative leave (June 15, 1994);

10. On November 3, 1994, Complainant exhausted all unused leave and was placed on leave without pay status;

11. John Sweeney, Administrative Supervisor, and/or his staff did not discriminate against Complainant;

12. Bruce Rifkin, Court of the Clerk, did not discriminate against Complainant; and

13. While Complainant awaited test results and applied for disability benefits, Bruce Rifkin, Clerk of the Court, accommodated the Complainant by investigating (though unsuccessfully) specialized training and by selecting the option most financially beneficial to the Complainant.

Based on the above findings and conclusions, the Court finds that the Clerk of the Court and employees of the Clerk's Office (1) did not discriminate against Joy Horton because of her handicap; (2) nor would it be feasible for the Clerk's Office to reinstate Complainant as a Jury/Financial Assistant;

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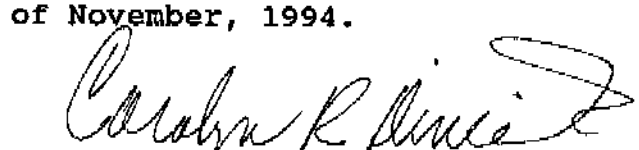
or (3) place her in another federal job position with her learning disabilities. Therefore, this claim is DISMISSED.

The Clerk Office is directed to send copies of this Order to Joy Horton, Complainant and Bruce Rifkin, Clerk of the Court.

DATED this 16th day of November, 1994.



Carolyn R. Dimmick
Chief Judge

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