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PUBLIC EMPLOYMENT - NEW JERSEY

Delanoy v. Township of Ocean

Supreme Court of New Jersey - March 9, 2021 - A.3d - 2021 WL 865354

Police officer brought action against township, her employer, asserting claims for pregnancy discrimination in violation of the New Jersey Law Against Discrimination (LAD), as modified by the New Jersey Pregnant Workers Fairness Act (PWFA).

The Superior Court granted township's motion for summary judgment and denied officer's cross-motion for summary judgment. Officer appealed. The Superior Court, Appellate Division, reversed in part, vacated in part, and remanded. Township's petition for certification was granted.

Addressing issues of first impression, the Supreme Court held that:

- The PWFA provides three distinct statutory causes of action for pregnant and breastfeeding employees: unequal or unfavorable treatment, failure to accommodate, and unlawful penalization;
- Township violated the PWFA by enacting a facially unfavorable policy, that is, a Light Duty Standard Operating Procedure (SOP) applicable to non-pregnant injured officers that provided for waiver of accumulated-leave condition and a Maternity SOP that did not;
- To establish a reasonable-accommodation claim under the PWFA, a plaintiff must follow the statutory direction set forth in subsection (s), governing pregnancy discrimination in the workplace and principles of reasonable accommodation, and not case law governing claims for failure to accommodate a disability under the LAD;
- The PWFA may require, in specific circumstances, that an employer provide a reasonable accommodation that entails temporarily permitting a pregnant employee to transfer to work that omits an essential function of her job;
- Officer stated a prima facie failure-to-accommodate claim under the PWFA; and
- A cause of action for unlawful penalization under the PWFA prohibits employer-imposed conditions on accommodations that are especially harsh.

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