

Matter of Matter of Goonewardena v State of N.Y. Workers' Compensation Bd.

2012 NY Slip Op 03875

Decided on May 17, 2012

Appellate Division, First Department

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This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on May 17, 2012
Saxe, J.P., Sweeny, Acosta, Freedman, Rom en, JJ.

AFFIRMS Board's decision to terminate a provisional employee.

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]In re Bernard W. Goonewardena, Petitioner-Appellant,

v

State of New York Workers' Compensation Board, Respondent-Respondent.

Bernard W. Goonewardena, appellant pro se.
Eric T. Schneiderman, Attorney General, New York (Won S. Shin of counsel), for respondent.

Order and judgment (one paper), Supreme Court, New York County (Walter B. Tolub, J.), entered October 15, 2009, which denied the petition brought pursuant to CPLR article 78 seeking, inter alia, to annul respondents' determination dated July 2, 2008 terminating petitioner's probationary employment and dismissed the proceeding, unanimously affirmed, without costs.

It is well-settled that a probationary employee may be discharged without a hearing and without a statement of reasons, in the absence of any demonstration that the dismissal was in bad faith, for a constitutionally impermissible purpose, or in violation of law (*see Matter of Swinton v Safir*, 93 NY2d 758, 762-763 [1999]; *Matter of York v McGuire*, 63 NY2d 760, 761 [1984]). Evidence in the record regarding petitioner's unsatisfactory completion of his duties provide a rational basis for respondent's determination, particularly since petitioner received ample opportunity to improve (*see Matter of Johnson v Katz*, 68 NY2d 649, 650 [1986]; *Matter of Bienz v Kelly*, 73 AD3d 489 [2010]). No substantial issue was raised by petitioner's allegations purporting to show bad faith (*see Matter of Jones v New York City Health & Hosps. Corp.*, 5 AD3d 338 [2004]). Thus, no hearing was required and the petition was properly denied (*see Matter of Johnson*, 68 NY2d at 650).

This constitutes the decision and order of the Supreme Court, Appellate Division, First Department.
Entered: may 17, 2012
Clerk