

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION and SUKHBIR KAUR,

Plaintiffs,

vs.

NATIONAL WHOLESALE
LIQUIDATORS, INC.,

Defendant

CIVIL ACTION

Docket #: 07-cv-2507

**COMPLAINT
&
JURY DEMAND**

Plaintiff Sukhbir Kaur, by and through her attorneys, alleges for her Complaint as follows:

INTRODUCTION

1. Plaintiff, Sukhbir Kaur (“Kaur”) asserts this action against Defendant, National Wholesale Liquidators, for legal relief to redress employment discrimination and a hostile work environment on the basis of sex, religion, race/ethnicity, and national origin, and for retaliation for engaging in protected activity, during the course of her employment. This suit is brought to secure the protection of, and to redress the deprivation of rights secured by Title VII of the Civil Rights Act of 1964, codified at 42 U.S.C: §2000e, *et seq.*, as amended (“Title VII”), Section 296 of the New York State Human Rights Law, codified as N.Y. Exec. Law §296 (“NYSHRL”), and the common laws of the State of New York.

PARTIES

2. Plaintiff, Sukhbir Kaur, is a legal permanent resident of the United States of America and resides in Queens County, New York. She is a female who was born in India, and is of South Asian/Punjabi ancestry. She is a practicing member of the Sikh religious faith. As a Sikh, Ms. Kaur is required to maintain uncut hair and cover her head with a turban.

3. Ms. Kaur was employed by the Defendant at its store in Long Island City, New York from approximately July of 2002 until her termination in October of 2004.

4. Defendant National Wholesale Liquidators (“NWL”), is a corporation created pursuant to the laws of the State of New York and doing business in the State of New York. Upon information and belief, NWL has wholesale stores in approximately twelve states, including New York, which sell a variety of consumer goods. From its corporate offices in West Hempstead, New York, the defendant maintained actual and/or constructive control over all of its operations at its various stores including its store in Long Island City, New York.

5. All of the acts alleged in this Complaint were authorized, ordered, implemented, and/or ratified by National Wholesale Liquidators’ officers, agents, employees, and/or representatives while actively engaged in the management of Defendant’s business.

6. Defendant is an “employer” within the meaning of 42 U.S.C. § 2000e(b).

JURISDICTION & VENUE

7. This Court has jurisdiction over this action pursuant to 42 U.S.C. § 2000e-5(f)(3), 28 U.S.C. § 1331, and 28 U.S.C. §§ 1343(a)(1), (4), and supplemental

jurisdiction for common law violations pursuant to 28 U.S.C. § 1367, as the common law claims form part of the same case or controversy.

8. Plaintiff's action for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 1343, 2201 and 2202.

9. Venue is proper pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3) because the Defendant conducts business in the State of New York, and engaged in and/or ratified, in the State of New York, the illegal conduct which adversely affected the Plaintiff.

PROCEDURAL & ADMINISTRATIVE REQUIREMENTS

10. The Plaintiff has satisfied all of the procedural and administrative requirements set forth in §706 of Title VII (42 U.S.C. § 2000e-5), in particular:

A. The Plaintiff filed a timely Charge of Discrimination with the United States Equal Employment Opportunity Commission ("EEOC") on or about July 13, 2005.

B. On or about September 29, 2006, the EEOC issued a determination that Defendant:

(1) Subjected the Plaintiff and a class of similarly situated individuals to disparate treatment, different terms and conditions of employment, and unlawful termination on the basis of their race, national origin, religion, and sex;

(2) Failed to provide religious accommodation to the Plaintiff and a class of similarly situated individuals;

(3) Subjected the Plaintiff and a class of similarly situated individuals to harassment on the basis of their race, national origin, religion, and sex

and that it created and maintained a hostile work environment for the class of similarly situated individuals on those bases;

(4) Discriminated against the Plaintiff and similarly situated individuals on the basis of their national origin by imposing an English only rule and prohibiting South Asians from speaking their native language in the workplace, even during work breaks;

(5) Sexually harassed the Plaintiff, created a hostile work environment on the basis of sex, and offered her tangible job benefits in exchange for sex, took tangible employment action against Kaur when she refused to submit to her manager's sexual advances, and retaliated against her for refusing her manager's her manager's sexual advances;

(6) Retaliated against the Plaintiff for complaining about discrimination.

FACTS COMMON TO ALL COUNTS

11. Plaintiff Sukhbir Kaur is a legal permanent resident of the United States of America, and resides in Queens County, New York. She is a female who was born in India and is of South Asian and Punjabi ethnicity. Ms. Kaur is a practicing member of the Sikh religious faith. As a Sikh, she is required to maintain uncut hair and cover her head with a turban.

12. Ms. Kaur began working for a National Wholesale Liquidators ("NWL") store in Long Island City, New York in approximately July of 2002. During the summer of 2004 a man named Karim Baccas became a Manager of the NWL store at which Ms. Kaur worked. Mr. Baccas supervised Ms. Kaur for approximately four months.

13. During the time that Ms. Kaur worked under Mr. Baccas, he made statements indicating his disdain for Indian and Pakistani employees. For example, Mr. Baccas made statements to Ms. Kaur stating that he did not want Indians and Pakistanis working at NWL, but instead preferred Guyanese and Hispanic employees. He often called Indian and Pakistani employees “dirty” and “nasty.”

14. Mr. Baccas treated Hispanic employees at the store more favorably than he did Ms. Kaur. For example, he gave Hispanic employees more favorable job assignments as compared to those he gave Ms. Kaur.

15. During the time that Ms. Kaur worked under Mr. Baccas, he made repeated statements to her that indicated a disdain for employees of the Sikh religion. For example, Mr. Baccas made derogatory references to Sikh employees, stating that he believed Sikhs to be “thieves and nasty.”

16. During the time that Ms. Kaur worked under Mr. Baccas, he repeatedly urged Ms. Kaur to remove her religiously-mandated turban and expose her hair, stating that by doing so she would look “sexy” to him. Mr. Baccas told Ms. Kaur that he found her attractive and asked her why she worked so hard, stating that if she engaged in sexual relations with him she would receive a raise.

17. When Ms. Kaur resisted Mr. Baccas’s sexual advances, he ordered her to clean the store’s filthy bathrooms as a form of punishment. Cleaning bathrooms previously had not been part of her job duties. Ms. Kaur refused to clean the bathrooms. In response, Mr. Baccas told her that she would not be allowed to use the bathroom, and instead would have to “hold it in.” He also told her to start wearing a diaper to work instead of using the bathroom.

18. Ms. Kaur complained to approximately three separate managers at National Wholesale Liquidators regarding Mr. Baccas's discriminatory, harassing, and retaliatory conduct. Upon information and belief, these managers took no action to address her complaints.

19. Instead, Mr. Baccas's discriminatory and harassing behavior only grew worse. Mr. Baccas repeatedly threatened Ms. Kaur, stating that if she complained about him to anyone, he would call the police and tell them that she had engaged in theft.

20. In October of 2004, Rashid discriminatorily and retaliatorily terminated Ms. Kaur. On that day, while at work, Ms. Kaur got into an verbal altercation with Mr. Baccas, wherein he told her to wear a diaper instead of using the bathroom and used abusive language towards her. Ms. Kaur told him to stop abusing her, at which point he told her that he did not want her working at NWL and to go home. Mr. Baccas told her if she complained, he would call the police.

21. Ms. Kaur was never paid for several days of work.

22. As a result of the Defendant's discriminatory, harassing, and retaliatory conduct, Ms. Kaur suffered severe harm including, but not limited to, emotional distress.

COUNT ONE

(42 USC § 2000e)

23. Plaintiff repeats and realleges each and every allegation set forth in the preceding paragraphs of the Complaint as if fully set forth herein.

24. The Defendant discriminated against the Plaintiff with respect to the terms, conditions, and privileges of her employment on the basis of her sex (female), religion (Sikhism), race and ethnicity (South Asian/Punjabi), and national origin (Indian) in violation of Title VII.

25. The Defendant's conduct was intentional, deliberate, willful, and conducted in callous disregard of the rights of the Plaintiff.

26. The Defendant's policies and practices resulted in the Plaintiff being subject to disparate treatment, a hostile work environment, quid pro quo sexual harassment, and retaliation.

27. By reason of the continuous nature of the Defendants' discriminatory conduct, persistent throughout the tenure of Rashid's supervision of Ms. Kaur, the Plaintiff is entitled to application of the continuing violation doctrine to all of the violations alleged herein.

28. By reason of the Defendant's discrimination, the Plaintiff suffered severe harm, and is entitled to all legal and equitable remedies available under Title VII, including, but not limited to, back pay, front pay, reinstatement, restoration of benefits and seniority, and compensatory and punitive damages.

COUNT TWO

(N.Y. Exec. Law §296)

29. Plaintiff repeats and realleges each and every allegation set forth in the preceding paragraphs of the Complaint as if fully set forth herein.

30. The Defendant discriminated against the Plaintiff with respect to the terms, conditions, and privileges of her employment on the basis of her sex (female), religion (Sikhism), race and ethnicity (South Asian/Punjabi), and national origin (Indian) in violation of Title VII.

31. The Defendant's conduct was intentional, deliberate, willful, and conducted in callous disregard of the rights of the Plaintiff.

32. The Defendant's policies and practices resulted in the Plaintiff being subject to disparate treatment, a hostile work environment, quid pro quo sexual harassment, and retaliation.

33. By reason of the continuous nature of the Defendants' discriminatory conduct, persistent throughout the tenure of Rashid's supervision of Ms. Kaur, the Plaintiff is entitled to application of the continuing violation doctrine to all of the violations alleged herein.

34. By reason of the Defendant's discrimination, the Plaintiff suffered severe harm, and is entitled to all legal and equitable remedies available under N.Y. Exec. Law §296, including, but not limited to, back pay, front pay, reinstatement, restoration of benefits and seniority, and compensatory and punitive damages.

COUNT THREE

(Intentional Infliction of Emotional Distress)

35. Plaintiff repeats and realleges each and every allegation set forth in the preceding paragraphs of the Complaint as if fully set forth herein.

36. The conduct of Defendant as described in the preceding paragraphs of the Complaint was extreme and outrageous in nature, and beyond all possible bounds of decency.

37. The conduct of Defendant as described in the preceding paragraphs of the Complaint was intended to cause severe emotional distress upon Plaintiff.

38. As a direct and proximate result of Defendant's conduct, Plaintiff has suffered severe emotional distress.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests the following relief:

A. Issue a declaratory judgment that the employment policies, practices, procedures, conditions, and customs of the Defendant violated the rights of the Plaintiff as secured by Title VII, the NYSHRL, and the common laws of the State of New York;

B. Grant the Plaintiff a permanent injunction enjoining the Defendant, its agents, successors, and employees from continuing to violate Title VII, the NYSHRL, and the common laws of the State of New York;

C. An award of back pay, front pay, reinstatement, and restoration of benefits, and seniority;

D. Any other appropriate equitable relief to the Plaintiff;

E. An award of nominal, consequential, compensatory, and punitive damages to the Plaintiff in an amount to be determined at trial;

F. An award of litigation costs and expenses, including reasonable attorneys' fees, to the Plaintiff;

G. Pre-judgment interest; and

H. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMAND

39. The Plaintiff demands trial by jury of all issues triable of right to a jury.

Respectfully submitted this 10th day of October, 2007.

/s/ Ravinder S. Bhalla

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