

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted December 13, 2022*
Decided December 15, 2022

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2394

FARVA JAFRI,
Plaintiff-Appellant,

v.

SIGNAL FUNDING, LLC, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of Illinois,
Eastern Division.

No. 1:19-cv-00645

Thomas M. Durkin,
Judge.

ORDER

Farva Jafri sued her former employers under the Illinois Human Rights Act and both the federal and Illinois versions of the Equal Pay Act. The district court dismissed

* We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

her Human Rights Act claims for failure to exhaust administrative remedies and later granted summary judgment on the Equal Pay Act claims. We affirm.

Jafri was hired as vice president of operations in 2016 by Signal Funding, a litigation-finance company. In this role, she says she was responsible for the “day-to-day” operations—overseeing technology, finance, accounting, servicing, funding, operations, regulatory issues, compliance, sales, case management, human resources, and administration—and acted as the chief executive officer’s “number two.” She resigned in 2017.

In early 2018, Jafri filed a charge of discrimination with the Equal Employment Opportunity Commission, alleging sex and religious discrimination by Signal Funding. She asserted that her employers treated her differently from her male colleagues, subjected her to a hostile work environment rife with sexual harassment, and treated her differently from her non-Muslim colleagues. She received a right-to-sue notice from the EEOC in July but did not submit it to the Illinois Department of Human Rights for another nine months—well beyond the 30-day limit for such filings. 775 ILCS 5/7A-102(A-1). Because of the untimely filing, the Department dismissed the claim for lack of jurisdiction under state law. *Id.*; ILL. ADMIN. CODE tit. 56, § 2520.490(d).

She then turned to federal court and sued Signal Funding, its parent companies, and Joshua Wander (Signal Funding’s co-founder) for (1) hostile work environment (based on sex) and discrimination (based on sex and religion), in violation of the Illinois Human Rights Act, 775 ILCS 5/2-102, and (2) unequal pay in violation of the Equal Pay Act, 29 U.S.C. § 206(d)(1), and the Illinois Equal Pay Act, 820 ILCS 112/10. With regard to the unequal pay claim, Jafri identified multiple male colleagues—including Gary Chodes (another co-founder of Signal Funding and its first chief executive officer) and David Hough (who replaced Chodes as chief executive officer)—as comparators who were paid more than her for the same work.

The district court dismissed Jafri’s complaint in part. The court dismissed her claims under the Illinois Human Rights Act on exhaustion grounds, pointing out that she did not submit a copy of the EEOC’s determination to the Illinois Department of Human Rights within the requisite 30 days. *See* 775 ILCS 5/7A-102(A-1)(1). But the court also determined that she stated claims for violations of the Equal Pay Acts, and allowed her to proceed on those claims.

The defendants later moved for summary judgment, arguing that Jafri failed to establish a *prima facie* case of wage discrimination under the federal and state versions

of the Equal Pay Act because none of the identified comparators performed work similar to Jafri. In opposing the motion, Jafri, for the first time, identified Adam Weiss, a man doing work for one of the corporate defendants, as another comparator.

The district court agreed with the defendants that Jafri failed to identify any comparable employees—adding that Weiss was not comparable because he made less money than Jafri—and entered summary judgment in their favor. The judgment, however, did not mention Joshua Wander or the Illinois Human Rights Act claims that the court had previously dismissed.

The defendants then asked the court to amend its judgment, FED. R. CIV. P. 59(e), to account for Wander and its prior rulings regarding the Illinois Human Rights Act claims. The court amended the judgment accordingly.

On appeal, Jafri first challenges the district court's ruling that she failed to administratively exhaust her Illinois Human Rights Act claims because she did not submit the EEOC's determination to the Illinois Department of Human Rights within 30 days of receiving it. In her view, there is no good reason to treat the 30-day deadline the same as other deadlines under the Act such as the 300-day deadline, *see* 775 ILCS 5/7A-102(A)(1) (deadline to file a charge after alleged violation of Act has occurred), and 90-day deadline, *see id.* at 5/7A-102(C)(4) (deadline to appeal after receiving dismissal from Department).

The Illinois Human Rights Act requires a complainant to exhaust administrative remedies before filing a civil lawsuit. *See generally, Garcia v. Village of Mt. Prospect*, 360 F.3d 630, 640 (7th Cir. 2004). Under a workshare agreement between the EEOC and the Illinois Department of Human Rights, a charge filed with the EEOC is deemed to have been simultaneously filed with the Department. When the EEOC makes its determination (or upon the complainant's request), it will send either its determination or a right-to-sue letter to the complainant. The complainant then has 30 days upon receipt to forward the determination to the Department. 775 ILCS 5/7A-102(A-1)(1). Failure to do so may result in a dismissal by the Department for want of jurisdiction under state law. ILL. ADMIN. CODE tit. 56, § 2520.490(d). (This time limit decides the jurisdiction of the state agency, not the federal court). When the Department dismisses a

complaint, a complainant may seek review before the Illinois Human Rights Commission or commence a civil action in Illinois state court. 775 ILCS 5/7A-102(C)(4).¹

Upon receiving the Department's determination, Jafri received notice that she could either seek review before the Human Rights Commission or file a state-court civil action. She did neither. She instead filed this federal suit, bypassing the process afforded by the state agency and the state courts. The purpose of the administrative-exhaustion requirement, however, is to enable the agency to develop the record, consider the facts, apply its expertise, and conserve resources by obviating the need for judicial review. *Poindexter v. State, ex rel. Dep't of Human Servs.*, 229 Ill.2d 194, 207 (Ill. 2008). By not complying with the statute's plain terms, Jafri failed to exhaust her administrative remedies, and she cites no relevant authority that suggests otherwise. These claims were properly dismissed.

Jafri also challenges the summary judgment entered on her claims under the federal and state Equal Pay Acts. She disputes the district court's conclusion that she hadn't identified an appropriate comparator, and insists that (1) her responsibilities and skills were equal to that of Chodes and Hough, and that (2) Adam Weiss was comparable in relevant regards.

To establish a prima facie case of wage discrimination under the Equal Pay Act Jafri had to show that her work as vice president of operations demanded the same (1) responsibilities and (2) skills as the work of higher-paid male employees. *See Jaburek v. Foxx*, 813 F.3d 626, 632 (7th Cir. 2016). (The parties do not dispute that both the federal and state versions of the Equal Pay Act impose the same requirements. *See* 29 U.S.C. § 206(d)(1); 820 ILCS 112/10.) A male employee, paid more for "equal work requiring substantially similar skill, effort and responsibilities" performed under similar working conditions, is a comparator under the Equal Pay Act. *Jaburek*, 813 F.3d at 632.

As the district court properly concluded, Jafri failed to establish that any of the three coworkers was an adequate comparator for purposes of the Equal Pay Act. Weiss,

¹ The Illinois Human Rights Act was amended in 2008 to expand access to the courts by allowing complainants to appeal to the state trial court upon 1) receiving a dismissal from the Department or 2) the Department failing to complete its investigation within 365 days. *See* 2007 Ill. Legis. Serv. P.A. 95-243 (H.B. 1509) (West). Before this amendment, exhaustion required that the complainant first receive a final order from the Illinois Commission of Human Rights.

for instance, made less than Jafri. *See Warren v. Solo Cup Co.*, 516 F.3d 627, 629 (7th Cir. 2008). With regard to Chodes and Hough, the court found that both—in their roles as Signal Funding's chief executive officer—were responsible for strategic and high-level decision-making that was materially different from Jafri's responsibilities as vice president of operations. Both men also had litigation-finance-related skills and extensive experience that Jafri did not. *See Jaburek*, 813 F.3d at 632.

We have considered Jafri's other arguments, but none has merit.

AFFIRMED