

**LINDA M. BARROIS**

\*

**NO. 2003-CA-1449**

**VERSUS**

\*

**COURT OF APPEAL**

**PLAQUEMINES PARISH  
GOVERNMENT**

\*

**FOURTH CIRCUIT**

\*

**STATE OF LOUISIANA**

\*

\*

**\*\*\*\*\***

**NOT DESIGNATED FOR PUBLICATION**

APPEAL FROM  
25TH JDC, PARISH OF PLAQUEMINES  
NO. 03-01, CIVIL SERVICE COMMISSION

**\*\*\*\*\***

**Judge Terri F. Love**

**\*\*\*\*\***

(Court composed of Judge James F. McKay III, Judge Terri F. Love, Judge  
David S. Gorbaty)

**Linda M. Barrois**  
10913 Highway 23  
Belle Chasse, LA 70037

**IN PROPER PERSON, PLAINTIFF/APPELLANT**

**Robert P. Lombardi**  
**THE KULLMAN FIRM, A PLC**  
1100 Poydras Street  
1600 Energy Centre  
New Orleans, LA 70163

**COUNSEL FOR DEFENDANT/APPELLEE**

## **AFFIRMED**

This is an appeal of the decision of the Plaquemines Parish Civil Service Commission, (Commission) denying plaintiff's appeal of a temporary job transfer. For the reasons set forth below, we affirm.

### **STATEMENT OF FACTS AND PROCEDURAL HISTORY:**

Plaintiff/appellant, Linda Barrios (Barrios) was employed by the Plaquemines Parish Government's Recreation Department as a workflow coordinator. In December of 2002, Barrios applied for the open position of Superintendent of Recreation. In January 2003, the position was given to Cathy Billiot (Billiot). For reasons not pertinent to this appeal, Barrios did not get along well with Billiot and on February 6, 2003, Barrios requested a transfer. Barrios was offered a transfer that involved different working hours, but she did not accept the position. Barrios claims that on February 17, 2003, when she reported to work, she was told for the first time that she

was being transferred to a temporary position. Barrios described the new position as demeaning, whereby she was expected to sit all day in an unsanitary room shredding documents.

On March 10, 2003, Barrios filed a petition of appeal with the Commission. In her appeal, Barrios complained that the temporary assignment was unjustified and she sought “restoration of job duties equal to work-flow coordinator.” Barrios has not alleged a reduction in pay with the transfer.

In a letter dated April 4, 2003, the Commission notified Barrios that her appeal was denied. Barrios was informed that after meeting on April 1, 2001, to review the appeal, the Commission ruled that her petition for appeal did not meet any of the criteria set forth in Rule II, Section 4.1. Barrios has appealed the decision of the Commission to this court in proper person.

DISCUSSION:

Barrios has not specified any assignments of error as to the decision of the Commission. To the contrary, Barrios simply argues in her appeal brief that she was the victim of constructive termination, that she should have been promoted, and that she was subjected to harassment on the job. None of these arguments are relevant to this appeal.

The dispositive issue in this case is whether the Commission properly

denied her appeal. The Commission denied Barrios' appeal because it "did not meet any of the criteria set forth in Rule II, Section 4.1." The rule states:

Regular employees in the classified service shall have the right to appeal to the Commission from suspension, fine, dismissal, layoff reduction in pay, or demotion to test the reasonableness of such action. The burden of proof on appeal, as to the facts, shall be on the Appointing Authority.

In the instant case, Barrios did not allege any of the six types of actions that may form the basis for a petition of appeal under the Commission's rule. It is clear from the facts presented in this record that Barrios' claim does not involve a suspension, fine, dismissal, layoff, or reduction in pay or demotion. We therefore find no error in the Commission's decision to dismiss her appeal pursuant to Rule II, Section 4.1. This court has repeatedly held that it is reasonable to give some deference to the Commission's interpretation of its own rule. *DeLarge v. Department of Finance*, 94-1684 (La. App. 4 Cir. 3/27/96), 672 So.2d 1025; *Earls v. State Board of Certified Public Accountants*, 95-0505 (La. App. 4 Cir. 12/14/95), 665 So.2d. 1288.

STANDARD OF REVIEW:

The standard of appellate judicial review of the Commission's decision is set out in the Supreme Court decision of *Bannister v. Department of Streets*, 95-0404

(La. 1/16/96), 666 So.2d 641. First, the Commission's factual determinations are reviewed under the clearly erroneous/manifest error standard of review. *Id.* Thus, regardless of our own view of the evidence, we may not disturb the Commission's findings of fact so long as they are reasonable. *Stobart v. DOTD*, 617 So.2d 880 (La. 1993); *Rosell v. ESCO*, 549 So.2d 840 (La. 1989). Second, in deciding whether the Commission's action was based on legal cause and that the action taken was commensurate with the situation, we should not modify the Commission's decision unless it is arbitrary, capricious, or characterized by abuse of discretion. *Martin v. Sewerage and Water Board*, 02-1415 (La. App. 4 Cir. 1/8/03), 834 So.2d 672.

The Louisiana Constitution provides that rulings of the Commission are subject to judicial review on any question of law or fact. La. Const. art. 10, § 12. Where the Civil Service Commission's decisions involve jurisdiction, procedure, and interpretation of laws and regulations, judicial review is not limited to the arbitrary, capricious, or abuse of discretion standard. *Walton v. French Market Corp.*, 94-2457 (La. App. 4 Cir. 4/26/95), 654 So.2d 885; *Banks v. New Orleans Police Department*, 01-0859 (La. App. 4 Cir. 0/25/02), 829 So.2d 511. On legal issues, the appellate court gives no special weight to the findings of the trial court, but

exercises its constitutional duty to review questions of law and renders judgment on the record. *Cliburn v. Police Jury Ass'n of Louisiana, Inc.*, 99-2191 (La. App. 1 Cir. 11/3/00), 770 So.2d 899; *Christoffer v. New Orleans Fire Dept.*, 99-2658 (La. App. 4 Cir. 3/29/00), 757 So.2d 863. A mixed question of fact and law should be accorded great deference by the reviewing court under the manifest error standard of review. *Brasseaux v. Town of Mamou*, 99-1584 (La.1/19/00), 752 So.2d 815; *Lacoste v. Crochet*, 99-0602 (La. App. 4 Cir. 1/5/00), 751 So.2d 998.

CONCLUSION:

After a thorough review of the record, and for the reasons discussed herein, we find no error in the Commission's ruling denying Barrios' appeal. Accordingly, we affirm the decision of the Commission.