

Thursday, October 27, 2011

State prisons settle discrimination case

By Brian Sumers
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A Sikh man denied work as a state corrections officer because of his long beard will receive \$295,000 and a desk job as part of a settlement reached with the Department of Corrections and Rehabilitation.

The resolution ends legal battle lasting more than 6 years between the state and Trilochan Oberoi, an Indian immigrant who applied to work as a guard at Folsom State Prison near Sacramento. Lawyers for the state made the case that Oberoi was denied the job because he would not be able to fit a gas mask over his beard, a necessary precaution in a prison emergency.

Oberoi's lawyers argued keeping the beard was important to the practice of his religion.

In 2008, a State Personnel Board administrative law judge ruled the Department of Corrections should try to accommodate Oberoi, but his lawyers say the department continued to deny him a job. Oberoi filed suit in Sacramento County Superior Court in 2009, alleging the state violated Title VII of the Civil Rights Act of 1964. *Oberoi v. Department of Corrections*, 34-2009-00054595 (Sacramento Super. Ct., filed July 31, 2009).

A Department of Corrections spokeswoman confirmed the conditions of the settlement but said she could not comment on it.

"This is the California government discriminating against its own citizens," said Oberoi's lawyer, Harmeet K. Dhillon of Dhillon & Smith LLP in San Francisco. "It's been a long battle. Most clients would have given up after the government blew them off. But this client felt it was very important."

Oberoi will start his new job on Tuesday. Dhillon said her client has not been told what he will do, but he will not wear a uniform, need to wear a gas mask or interact with prisoners. Oberoi has been working as a clerk at a Wal-Mart store during the litigation.

Experts say the repercussions of the case could be limited since Oberoi was not offered a job as a prison guard, and the state did not admit fault.

"It's a settlement, not a decision binding on the courts," said Erwin Chemerinsky, dean of the UC Irvine School of Law. "On the other hand, the fact that the state was willing to settle and settle for a lot of money means that it is not likely to follow this policy in the future."

Chemerinsky said the state's case might have been undercut because the Department of Corrections gives waivers to men who can't shave their beards for medical reasons.

Dhillon said she hopes the case will have an impact beyond the settlement.

"I didn't take this case just to get Mr. Oberoi justice," Dhillon said. "I took this case because I wanted to get this policy changed. The policy hasn't changed. But I think they will think twice before they do this again."

Dawinder S. Sidhu, assistant professor at the University of New Mexico School of Law and a Sikh, said the Department of Corrections appears more open to accommodate religious beliefs compared to when Oberoi filed his case. Sidhu cited a June settlement between the department and the American Civil Liberties Union in which the state agreed to allow inmates to wear beards longer than a half inch.

Sidhu said states should be learning that they cannot always cite safety and security as reasons to disallow facial hair.

"This case is part of a broader movement in the correct, more reasonable legal direction," he said. "What we are seeing now is that those arguments are really losing their legal force and persuasiveness."

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