SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. LESLIE A. STROTH **PART 12M**
Justice

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RAJAGOPALA S. RAGHAVENDRA,

Petitioner,

- v -

NEW YORK STATE DIVISION OF HUMAN RIGHTS, THE TRUSTEES OF COLUMBIA UNIVERSITY IN CITY OF NEW YORK,

Respondents.

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INDEX NO. 159964/2023

MOTION DATE May 28, 2024

MOTION SEQ. NO. 001 002 (&003 - 013)

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 18, 21, 35, 66, 67, 68, 69, 70

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER) .

The following e-filed documents, listed by NYSCEF document number (Motion 002) 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 71

were read on this motion to/for DISMISS .

The instant action arises from petitioner Rajagopala Raghavendra's termination of employment on September 23, 2005 with respondent Columbia University in the City of New York for alleged misconduct.[1] On April 5, 2023, petitioner filed a complaint with the New York State Division of Human Rights for his termination of employment from Columbia and failure of Columbia to hire petitioner after submitting subsequent job applications, asserting claims of racial

[1] Oral argument was held on the instant applications on May 28, 2024.

discrimination and retaliation as he had claimed throughout the pendency of various actions. By Determination and Order After Investigation dated August 14, 2023, the New York State Division of Human Rights dismissed petitioner's complaint and found no probable cause necessitating a hearing (Exh A, p 3). Petitioner now moves here against respondents the New York State Division of Human Rights and the Trustees of Columbia University in the City of New York, pursuant to, *inter alia*, CPLR Articles 75 and 78, as well as New York Executive Law §298 and 22 NYCCR §202.57.

Respondent The Trustees of Columbia University in the City of New York filed a motion to dismiss the instant petition, arguing that Columbia is an improper party, petitioner is precluded from filing any papers before this Court without prior permission, and petitioner's claims are untimely and barred by res judicata. Columbia indicated that petitioner filed more than fifteen duplicative lawsuits against Columbia and its employees and counsels, in both state and federal courts, all of which resulted in dismissal and sanctions against petitioner, including a directive for plaintiff to cease engagement in any further proceedings against Columbia.

* * *

On August 30, 2006, petitioner filed an action in New York State Supreme Court, New York County, which respondent stated was transferred to federal court in January 2009, against Columbia University, and its President and its officials, alleging that the Trustees of Columbia University "violated his civil rights and retaliated against him when he complained about it" (*Raghavendra v. Trs. of Columbia Univ.*, 686 F. Supp. 2d. 332 (S.D.N.Y. 2010)). The District Court denied petitioner's motion to aside the putative settlement between the parties and recommended that all three cases in be dismissed (Id). On September 8, 2011, the Second Circuit affirmed the District Court's order, finding that the settlement agreement was binding and disposed of all of plaintiff's claims, and finding that petitioner's claims of fraud and duress were not substantiated by the record (*Raghavendra v. Trustees of Columbia Univ.*, 434 F. App'x 31 (2d Cir. 2011)).

In another matter *Raghavendra v. Stober*, 450287/2016, the First Department granted the dismissal of petitioner's appeals and enjoined the filings of papers without Court permission:

> [P]ursuant to the order of this Court entered January 5, 2017 (M-3450 and M-5436), enjoining plaintiff-appellant from filings of any kind, including but not limited to summonses and complaints, notices of appeal and motion papers, in any state court of the State of New York, involving any of the defendants in this action or any of the prior actions against these defendants, or any case involving the nucleus of operative facts at issue in this or the prior actions, without the prior, written permission of the Chief Judge, Presiding Justice or Administrative Judge of the Court in which such filing is sought. (NYSCEF Doc. 929).

The Southern District in *Raghavendra v. Trustees of Columbia Univ. in the City of New York*, No. 06CIV6841PACHBP, 2017 WL 6000553, at *10 (S.D.N.Y. Dec. 1, 2017), similarly ruled:

> Raghavendra must not submit any Prohibited Document as defined herein using the federal court's filing system without prior approval by this Court. If Raghavendra violates this order, the Court shall find Raghavendra in contempt of court and impose **$5,000** in civil fine per day until the Prohibited Document is withdrawn or stricken.
>
> Raghavendra must not file any action against Columbia, Stober, and their attorneys related to the subject matter of Case Nos. 06 Civ. 6841, 08 Civ. 8120, 09 Civ. 0019, and 17 Civ. 4480 in any federal or state court. If Raghavendra violates this order, the Court shall find Raghavendra in contempt of court and impose **$5,000** in civil fine per day until the newly filed action is withdrawn or dismissed.

Upon view of the foregoing, this Court denies the instant petition in its entirety since petitioner failed to obtain Court approval to file the petition. Even if this Court considered the merits, when "the DHR renders a determination of no probable cause without holding a hearing, the proper standard of review is whether the determination was arbitrary and capricious or lacked a rational basis. The DHR's determination is entitled to considerable deference given its expertise in evaluating discrimination claims. Moreover, the DHR has broad discretion in conducting its investigations" (*Lewis v. New York State Div. of Hum. Rts.*, 163 A.D.3d 818 (2nd Dept 2018)). The Court finds that the determination issued by the New York State Division of Human Rights was not arbitrary and capricious or an abuse of discretion. According to the Determination by the New York State Division of Human Rights dated August 14, 2023 (Exh A, p 2):

> The record establishes that in 2009, the parties entered into a binding settlement agreement settling three federal actions alleging discrimination and retaliation in employment, including hostile work environment, wrongful termination and failure to promote based on race, color and national origin, and retaliation, in violation of the New York State Human Rights Law, N.Y. Exec. Law § 296(1). Those actions, 06 Civ. 6841; 08 Civ. 8120; 09 Civ. 0019, were dismissed with prejudice. Raghavendra v. Trustees of Columbia University, 686 F.Supp.2d 332 (SDNY 2010 aff d in part and vacated in part, 434 F. App'x 31 (2d Cir. 2011))...
>
> The investigation revealed insufficient evidence that the Complainant was treated disparately due to his race/color or national origin or retaliated against for opposing discrimination. The investigation revealed that the Complainant entered into a settlement agreement after commencing litigation when he was originally terminated. Since then, the Complainant has attempted repeatedly to litigate the issue that the Respondent unlawfully refused to consider him for re-employment. As this issue has been resolved in prior litigation, the doctrine of res judicata in the form of issue preclusion applies to his current complaint. Repeated applications for employment do not revive this issue.

This Court is not convinced by petitioner's argument that he faced discrimination or retaliation following Columbia's failure to consider his employment application in 2023, and thus finds that dismissal of this action is warranted since petitioner "fails to assert facts in support of an element of the claim, or if the factual allegations and inferences to be drawn from them do not allow for an enforceable right of recovery" (*Levy v. SUNY Stony Brook*, 185 A.D.3d 689 504 (2nd Dept 2020)). "[I]n addition to bare legal conclusions, factual claims either inherently incredible or flatly contradicted by documentary evidence are not entitled to any presumption of truth (Id.). Petitioner fails to provide any evidence in support of his claim that Columbia illegally paid $650,000 in bribes and kickbacks and obstructed a $200 million dollars class action, as well as its connection with petitioner's discrimination and retaliatory claims.

The Court has also considered petitioner's commencement of a prior action in the New York State Supreme Court held before Judge Lucy Billings, in which the First Department affirmed her Order dated February 4, 2014 that "granted defendants' motion to dismiss the causes of action under the State and City Human Rights Laws", finding the following:

> This action is time-barred. Defendants' refusal to rehire plaintiff was communicated to him no later than June 28, 2007; the applicable limitations period started running on that date. Plaintiff's repeated applications to be rehired could not toll, or restart, the limitations

> period… As the motion court found, this action is also barred, pursuant to the doctrine of res judicata, by a prior federal court judgment disposing of all of the claims that plaintiff raised or could have raised in that court. Plaintiff's unceasing applications to be rehired do not remove his post judgment claims from the bar of res judicata"
> (*Raghavendra v. Bollinger*, 128 A.D.3d 416 (1st Dept 2015)).

"[O]nce a claim is brought to a final conclusion, all other claims arising out of the same transaction or series of transactions are barred, even if based upon different theories or if seeking a different remedy. When alternative theories are available to recover what is essentially the same relief for harm arising out of the same or related facts such as would constitute a single 'factual grouping' the circumstance that the theories involve materially different elements of proof will not justify presenting the claim by two different actions" (*Yerg v. Bd. of Educ. of Nyack Union Free Sch. Dist.*, 141 A.D.2d 537 (1988)). Thus, the Court finds that petitioner's claims are also barred by res judicata since petitioner raises allegations of discrimination and retaliation based on Columbia's failure to rehire him as he did in prior complaints.

* * *

Accordingly, it is hereby

ORDERED, that petitioner's motion #001 is denied; and it is further

ORDERED, that respondent Columbia's motion to dismiss the instant petition is granted; and it is further

ORDERED, that motions #003 through #013 are denied as moot.

The foregoing constitutes the decision and order of the Court.

DATE: 9/20/2024

HON. LESLIE A. STROTH
J.S.C.

CHECK ONE:	[X]	**CASE DISPOSED**		**NON-FINAL DISPOSITION**			
	[ ]	**GRANTED**	[ ] **DENIED**	[ ]	**GRANTED IN PART**	[X]	**OTHER**
APPLICATION:	[ ]	**SETTLE ORDER**		[ ]	**SUBMIT ORDER**		
CHECK IF APPROPRIATE:	[ ]	**INCLUDES TRANSFER/REASSIGN**		[ ]	**FIDUCIARY APPOINTMENT**	[ ]	**REFERENCE**