

U.S. Department of Labor

Administrative Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



IN THE MATTER OF:

MADHURI TRIVEDI,

ARB CASE NO. 2022-0026

COMPLAINANT,

ALJ CASE NO. 2022-SOX-00005

v.

DATE: January 27, 2023

**GENERAL ELECTRIC and
GE HEALTHCARE,**

RESPONDENTS.

Appearances:

For the Complainant:

Madhuri Trivedi; *pro se*; Boston Massachusetts

For the Respondents:

**Tomasita L. Sherer, Esq. and Cassandra Beckman Widay, Esq.;
Dentons US LLP; New York, New York**

**Before: HARTHILL, Chief Administrative Appeals Judge, BURRELL and
PUST, Administrative Appeal Judges**

**ORDER DENYING COMPLAINANT'S FIRST, SECOND, AND THIRD
MOTION TO RECUSE, MOTION TO VACATE DENIAL OF THE MOTION
FOR RECONSIDERATION, AND MOTION FOR RE-HEARING EN BANC**

PUST, Administrative Appeals Judge:

This case arises under the whistleblower protection provisions of Section 806 of the Corporate and Criminal Fraud Accountability Act of 2002, Title VIII of the Sarbanes-Oxley Act (SOX), 18 U.S.C. § 1514A, its implementing regulations at 29 C.F.R. Part 1980, and the Consumer Financial Protection Act of 2010 (CFPA),

Section 1057 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, 12 U.S.C. § 5567. Madhuri Trivedi (Complainant) filed a whistleblower complaint against General Electric and GE Healthcare (Respondents) for alleged retaliation.¹ The Administrative Law Judge (ALJ) issued an Order Denying Complaint for Failure to Timely File, finding that Complainant had missed the 180-day filing deadline by several years and determining that the legal test for equitable tolling had not been met.² Complainant appealed the ALJ's decision to the Administrative Review Board (Board).³ Upon a thorough review of a Complainant's briefs and exhibits totaling 669 pages, plus consideration of the record of the proceedings below, on August 24, 2022, the Board issued a Decision and Order (D. & O.). In the D. & O., the Board affirmed the ALJ's determination that Complainant had failed to establish any sufficient grounds for equitable tolling and dismissed the complaint.⁴

On September 14, 2022, Complainant requested the Board to reconsider our decision and hold a re-hearing en banc.⁵ On October 28, 2022, the Board denied Complainant's motion for reconsideration.⁶

On November 8, 2022, Complainant filed a motion to recuse the entire Board panel, a motion to vacate the denial of the motion for reconsideration, and a motion for a re-hearing en banc.⁷ Complainant requests that the undersigned Board members recuse themselves from this matter and that her case be re-assigned to another Administrative Appeals Judge on the Board.⁸ Complainant also requests a re-hearing en banc with all of the Board's Administrative Appeals Judges.⁹ On

¹ *Trivedi v. Gen. Elec. and GE Healthcare*, ARB No. 2022-0026, ALJ No. 2022-SOX-00005, slip op. at 4 (ARB Aug. 24, 2022).

² *Id.* at 5.

³ *Id.*

⁴ *Id.* at 11.

⁵ Complainant's Petition for Rehearing and Rehearing En Banc and Motion for Reconsideration (Sept. 14, 2022).

⁶ *Trivedi v. Gen. Elec. and GE Healthcare*, ARB No. 2022-0026, ALJ No. 2022-SOX-00005 (ARB Oct. 28, 2022).

⁷ Complainant's Motion to Recuse, Motion to Vacate Denial of the Motion for Reconsideration Issued on October 28, 2022, and Motion to Rule on Pending Petition for Rehearing En Banc (Nov. 8, 2022).

⁸ *Id.* at 1-2.

⁹ *Id.*

November 30, 2022¹⁰ and January 6, 2023,¹¹ Complainant filed additional motions reiterating the requests made in her November 8, 2022 motion. The Board will treat these motions as a second motion for reconsideration.¹²

Administrative appeals judges, like administrative law judges and judicial decision makers, are presumed to act impartially.¹³ To overcome the presumption of fairness, the petitioning party must show that the decision-maker has “demonstrated prejudgment of the facts and law involved in the case . . . or has a conflicting interest that is likely to influence their decision.”¹⁴ Generally, such bias “cannot be shown without proof of an extra-judicial source of bias.”¹⁵

Complainant alleges that the undersigned members of the Board must recuse themselves over the “corrupt denial order” dismissing her complaint.¹⁶ Complainant has not provided any evidence of a “corrupt denial order.”¹⁷ Moreover, a prior

¹⁰ Complainant’s Second Motion to Recuse, Second Motion to Vacate Denial of the Motion for Reconsideration Issued on October 28, 2022, and Second Motion to Rule on Pending Petition for Re-hearing En Banc (Nov. 30, 2022).

¹¹ Complainant’s Third Motion to Recuse, Third Motion to Vacate Denial of the Motion for Reconsideration Issued on October 28, 2022, and Third Motion to Rule on Pending Petition for Re-hearing En Banc (Nov. 30, 2022).

¹² See *Bidwai v. Bd. of Educ. of Prince George’s Cnty.*, ARB No. 2012-0072, ALJ No. 2011-LCA-00029, slip op. at 2 (ARB Oct. 17, 2012) (treating the complainant’s motion to reinstate the complaint and recuse the Board’s Administrative Appeals Judges and General Counsel as a request for reconsideration) and *Bidwai v. Bd. of Educ. of Prince George’s Cnty.*, ARB No. 2012-0072, ALJ No. 2011-LCA-00029, slip op. at 2 (ARB Nov. 5, 2012) (treating the complainant’s motion for en banc review to reconsider the dismissal order as a second request for reconsideration).

¹³ *In re Slavin*, ARB No. 2004-0172, slip op. at 4 (ARB Oct. 20, 2004).

¹⁴ *Id.*

¹⁵ *Matthews v. Ametek, Inc.*, ARB No. 2011-0036, ALJ No. 2009-SOX-00026, slip op. at 5 (ARB May 31, 2012).

¹⁶ Complainant’s Motion to Recuse, Motion to Vacate Denial of the Motion for Reconsideration Issued on October 28, 2022, and Motion to Rule on Pending Petition for Re-hearing En Banc (November 8, 2022); Complainant’s Second Motion to Recuse, Second Motion to Vacate Denial of the Motion for Reconsideration Issued on October 28, 2022, and Second Motion to Rule on Pending Petition for Re-hearing En Banc (November 30, 2022); and Complainant’s Third Motion to Recuse, Third Motion to Vacate Denial of the Motion for Reconsideration Issued on October 28, 2022, and Third Motion to Rule on Pending Petition for Re-hearing En Banc (November 30, 2022).

¹⁷ *Id.* Complainant contends that the undersigned members of the Board must recuse themselves because she filed a lawsuit against them in federal court relating to the Board’s dismissal of her complaint. A lawsuit against a judge is not an extra-judicial source of bias. See *United States v. Pryor*, 960 F.2d 1, 3 (1st Cir. 1992) (automatic recusal cannot “be

unfavorable decision does not constitute evidence of personal bias and is not sufficient to require recusal.¹⁸ Thus, these grounds are insufficient to require any member of the Board to recuse themselves in this case.

In her filings, Complainant also raised similar arguments identified in her first motion for reconsideration. The Board has already considered these arguments and found them to be both factually and legally insufficient. As they still do not meet the standard for reconsideration cited in the Board's order dated October 28, 2022, Complainant's motions fail to demonstrate a ground upon which the Board will grant reconsideration.

Accordingly, Complainant's first, second, and third motions to recuse, motion to vacate denial of the motion for reconsideration, and motion for re-hearing en banc are **DENIED**.

SO ORDERED.



TAMMY L. PUST
Administrative Appeals Judge



SUSAN HARTHILL
Chief Administrative Appeals Judge



THOMAS H. BURRELL
Administrative Appeals Judge

obtained by the simple act of suing the judge.”); *In re WHET, Inc.*, 33 B.R. 424, 433 (Bankr. D. Mass. 1983) (“A judge is not disqualified merely because a litigant sues [the judge].”). In any event, Complainant's lawsuit was dismissed with prejudice on January 5, 2023. *Trivedi v. Gen. Elec. Co. et al*, No. 1:22-cv-11746-LEW (D. Mass. Jan. 5, 2023).

¹⁸ *Levi v. Anheuser Busch Co., Inc.*, ARB Nos. 2006-0102, 2007-0020, and 2008-0006, ALJ Nos. 2006-SOX-00037, -00108, and 2007-SOX-00055, slip op. at 15 (ARB Apr. 30, 2008).