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New York City Employees Terminated for Being Unvaccinated Must Be Reinstated and Repaid, Effective Immediately

November 1, 2022

On October 24, 2022, almost one year after Mayor Bill de Blasio announced New York City's vaccine mandate for all City employees, Judge Ralph J. Porzio from the Supreme Court of New York in Staten Island issued an order declaring that the COVID-19 vaccine mandate was unlawful. Since the mandate was issued, more than 1,750 public employees were terminated by the City for refusing to get vaccinated.

In making its decision, the Court considered that "[t]here was nothing in the record to support the rationality of keeping a vaccination mandate for public employees, while vacating the mandate for private sector employees (which, for private sector employees became effective December 27, 2021 and was rescinded by Mayor Eric Adams on September 20, 2022, with an effective date of November 1, 2022) or creating a carveout for certain professions, like athletes, artists, and performers…" or why unvaccinated public employees were kept at full duty while their exemptions were pending, which lasted several months. Per the mandate, City employees were required to show proof of having received at least one COVID-19 vaccine dose by October 29, 2021, regardless of what kind of city employment they engaged in.

The Court highlighted that Dr. David Chokshi, former Commissioner of the New York City Department of Health and Mental Hygiene, had the authority to issue public health mandates, but "lack[ed] the power and authority to permanently exclude [New York City employees] from their workplace." As a result, all city employees terminated under the mandate are to be reinstated to their full employment status, effective October 25, 2022, at 6:00 AM. Additionally, such City employees are entitled to back pay in salary from the date of termination and until reinstatement.

The Court emphasized that, "though vaccination should be encouraged, public employees should not have been terminated for their noncompliance."

New York City has appealed the decision.

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