JUN 2 2 2015

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

MUSARRAT ROOHI HUSAIN,))
Plaintiff, v.	 Case: 1:15-cv-00967 Jury Demand Assigned To: Unassigned Assign. Date: 6/22/2015 Description: Pro Se Gen. Civil (F Deck)
RAJIV SHAH, Administrator, United States Agency for International Development,	
Defendant.)))

MEMORANDUM OPINION

This matter is before the Court on initial review of plaintiff's *pro se* complaint. For the reasons stated below, the complaint will be dismissed.

Plaintiff, a former employee of the United States Agency for International Development, was removed from effective January 11, 2015. *See* Compl., Ex. 3 (Initial Decision, Merit Systems Protection Board, Docket Number DC-0752-15-0400-1-1, dated April 10, 2015) at 2. She was advised that she could seek review either by filing an appeal to the Merit Systems Protection Board ("MSPB") or by pursuing a grievance under the collective bargaining agreement, but not both. *See id.*, Ex. 3 at 2-3. Plaintiff opted to pursue a grievance, and approximately two months later, she also filed an appeal to the MSPB. *Id.*, Ex. 3 at 2. MSPB determined that plaintiff "made a timely valid election to pursue a grievance under the [collective bargaining agreement], and thus . . . deprived [the MSPB] of jurisdiction to adjudicate [her] appeal." *Id.*, Ex. 3 at 5.

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Plaintiff alleges that "MSPB denied the appeal on technical grounds without even reaching the merits of the case by claiming [that she had] previously filed a Grievance complaint but overlooked important facts showing the agency bad faith to process the Grievance complaint." Compl. at 3. Now that the MSPB's Initial Decision has become final, plaintiff seeks judicial review. This court is without jurisdiction, however. Where, as here, the MSPB's decision was based on jurisdictional grounds, plaintiff's appeal is proper only in the United States Court of Appeals for the Federal Circuit. 5 U.S.C. § 7703(b)(1) (providing that "a petition to review a final order or final decision of the [MSPB] shall be filed in the United States Court of Appeals for the Federal Circuit"); see Powell v. Dep't of Defense, 158 F. 3d 597, 598-99 (D.C. Cir. 1998). Accordingly, the Court will dismiss the complaint for lack of subject matter jurisdiction. See, e.g., Williams v. Office of Personnel Management, 983 F. Supp. 2d 153, 154 (D.D.C. 2013). An Order is issued separately.

DATE: 4/18/15

United States District Judge

¹ The Court treats the complaint as one challenging the MSPB's April 10, 2015 decision only. It appears that plaintiff has raised substantially similar employment discrimination claims both in this action and in a separate civil action. *See Husain v. Shah*, Civ. No. 15-0708 (UNA) (D.D.C. filed May 8, 2015). Plaintiff may pursue her employment discrimination claims in the earlier case.