

FILED: August 26, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-1522
(8:21-cv-00631-PJM)

SUSHILA GAUR

Plaintiff - Appellant

v.

DEPARTMENT OF DEFENSE

Defendant - Appellee

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK



A handwritten signature in black ink, appearing to read "P. S. Connor". Below the signature is the number "19".

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 21-1522

SUSHILA GAUR,

Plaintiff - Appellant,

v.

DEPARTMENT OF DEFENSE,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Peter J. Messitte, Senior District Judge. (8:21-cv-00631-PJM)

Submitted: August 24, 2021

Decided: August 26, 2021

Before NIEMEYER and HARRIS, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Sushila Gaur, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

*S. Gaur
8/26/21*

PER CURIAM:

Sushila Gaur appeals the district court's order dismissing her civil complaint without prejudice for lack of subject matter jurisdiction. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

SUSHILA GAUR,

*

Plaintiff,

*

v.

*

Civil Action No. PJM-21-0631

DEPARTMENT OF DEFENSE,

*

Defendant.

*

ORDER

Plaintiff Gaur filed a Complaint against the Department of Defense. ECF No. 1. Gaur stated that although her education and experience met the criteria to be hired she was denied a job due to defendant's "mistake." *Id.* at 6. By Order dated March 29, 2021, this Court directed Plaintiff Sushila Gaur to amend her Complaint as it appeared it may not have jurisdiction over this matter. ECF No. 4. Gaur filed an Amended Complaint that the Court now reviews. ECF No. 5.

The Amended Complaint names the Department of Defense as the Defendant. Gaur states that although she had the qualifications and experience she was not hired for the position. She states that she is "not able to figure out whether this discrimination is due to race, color, national origin or sexual orientation or all." ECF No. 5 at 6. She asks that the "Judge" find out the "real reason" she was denied the job. *Id.* at 7.

Gaur does not provide any factual allegations regarding the Defendant's actions other than it did not hire her for the position. She simply concludes that she was not hired due to discrimination by the Defendant. Gaur has not stated any facts to support a federal claim for relief.

Although district courts have a duty to construe self-represented pleadings liberally, a plaintiff must nevertheless allege facts that state a cause of action. *See Beaudett v. City of*

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Hampton, 775 F.2d 1274, 1278 (4th Cir.1985) (duty to construe liberally does not require courts to conjure up questions never squarely presented). A pleading that offers labels and conclusions or a formulaic recitation of the elements of a cause of action does not satisfy Rule 8's basic pleading requirements. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). The Amended Complaint does not state a federal claim that may proceed forward.

Alternatively, a federal court maintains diversity jurisdiction pursuant to 28 U.S.C. § 1332, for a dispute between citizens of different states if the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1332(a). The statute "requires complete diversity among parties, meaning that the citizenship of every plaintiff must be different from the citizenship of every defendant." *Central West Virginia Energy Co., Inc. v. Mountain State Carbon, LLC*, 636 F.3d 101, 103 (4th Cir. 2011), citing *Caterpillar, Inc. v. Lewis*, 519 U.S. 61, 68 (1996). Gaur has named a federal agency as the only defendant. A federal agency is not a citizen of any state for purposes of diversity jurisdiction. See *Wheeler v. U.S. Postal Serv.*, 2011 WL 5101945, at *3 (E.D. Cal. Oct. 25, 2011) ("[A] federal agency, such as the USPS, is not a citizen of any state for purposes of diversity jurisdiction."). Gaur has also not indicated that the amount in controversy exceeds \$75,000. Diversity jurisdiction has not been established in this matter.

The Court lacks subject matter jurisdiction, and the Complaint must be dismissed. See Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.").

Accordingly, it is this 20 day of April, 2021, by the United States District Court for the District of Maryland, hereby ORDERED that:

1. The Amended Complaint IS DISMISSED without prejudice;