

According to a state law, state employees may be fired only "for good cause." A woman who was both a resident and an employee of the state was summarily fired on the sole ground that she had notified federal officials that the state was not following federal rules governing the administration of certain federally funded state programs on which she worked. The state denied the woman's request for a hearing to allow her to contest the charge. There is no record of any other state employee having been terminated for this reason.

In a suit to reinstate her employment, which of the following claims provides the LEAST support for the woman?

- A. The state's firing of her unconstitutionally abridged her freedom of speech.
- B. The state's firing of her unconstitutionally denied her a privilege or immunity of state citizenship protected by Article IV.
- C. The state's firing of her violated the supremacy clause of Article VI, because it interfered with the enforcement of federal rules.
- D. The state's firing of her without affording her an opportunity for a hearing was an unconstitutional denial of procedural due process.

Explanation:

Privileges & immunities clauses

Provision

Applicability

Article IV

- Discrimination against citizens of other states
- Interference with right of *state* citizenship

Fourteenth Amendment

- Interference with right of *national* citizenship

The **Article IV privileges and immunities clause** prohibits states from **discriminating against citizens of other states** by denying them a **right of state citizenship**. But this clause does not apply here since (1) the woman is a resident (ie, citizen) of the state that fired her and (2) public employment is not a right of state citizenship. Therefore, this clause provides the *least* support for the woman in a suit to reinstate her employment.

(Choice A) The state fired the woman solely because she notified federal officials that the state was not complying with federal rules. As a result, that firing may have unconstitutionally abridged her right to free speech as a **public employee**.

(Choice C) The Article VI supremacy clause renders state action void when federal law **preempts** it—eg, when state action interferes with the achievement of federal objectives. Here, the state's firing of the woman for notifying federal officials that the state was not following federal rules likely interfered with the enforcement of those rules in violation of the supremacy clause.

(Choice D) The Fourteenth Amendment right to procedural due process requires states to give persons notice and a meaningful opportunity to be heard when depriving them of **life, liberty, or property**. And public employees who can only be fired for cause—like the woman—have a property interest in their jobs. Therefore, it was an unconstitutional denial of procedural due process to fire her without giving her an opportunity for a hearing.

Educational objective:

The Article IV privileges and immunities clause prohibits states from discriminating against citizens of other states by denying them a right of state citizenship.

References

- Paul v. Virginia, 75 U.S. 168, 180 (1869) (holding that the Article IV privileges and immunities clause only applies when a state discriminates against citizens of other states).

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