

Opinion of the Court

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SUPREME COURT OF THE UNITED STATES

No. 07–474

ANUP ENGQUIST, PETITIONER *v.* OREGON
DEPARTMENT OF AGRICULTURE ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

[June 9, 2008]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

The question in this case is whether a public employee can state a claim under the Equal Protection Clause by alleging that she was arbitrarily treated differently from other similarly situated employees, with no assertion that the different treatment was based on the employee’s membership in any particular class. We hold that such a “class-of-one” theory of equal protection has no place in the public employment context.

I

Anup Engquist, the petitioner in this case, was hired in 1992 by Norma Corristan to be an international food standard specialist for the Export Service Center (ESC), a laboratory within the Oregon Department of Agriculture (ODA). During the course of her employment, Engquist experienced repeated problems with Joseph Hyatt, another ODA employee, complaining to Corristan that he had made false statements about her and otherwise made her life difficult. Corristan responded by directing Hyatt to attend diversity and anger management training.

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In 2001, John Szczepanski, an assistant director of ODA, assumed responsibility over ESC, supervising Corristan, Hyatt, and Engquist. Szczepanski told a client that he could not “control” Engquist, and that Engquist and Corristan “would be gotten rid of.” When Engquist and Hyatt both applied for a vacant managerial post within ESC, Szczepanski chose Hyatt despite Engquist’s greater experience in the relevant field. Later that year, during a round of across-the-board budget cuts in Oregon, Szczepanski eliminated Corristan’s position. Finally, on January 31, 2002, Engquist was informed that her position was being eliminated because of reorganization. Engquist’s collective-bargaining agreement gave her the opportunity either to “bump” to another position at her level, or to take a demotion. She was found unqualified for the only other position at her level and declined a demotion, and was therefore effectively laid off.

Engquist subsequently brought suit in the United States District Court for the District of Oregon against ODA, Szczepanski, and Hyatt, all respondents here, alleging violations of federal antidiscrimination statutes, the Equal Protection and Due Process Clauses of the Fourteenth Amendment, and state law. As to Engquist’s equal protection claim, she alleged that the defendants discriminated against her on the basis of her race, sex, and national origin. She also brought what is known as a “class-of-one” equal protection claim, alleging that she was fired not because she was a member of an identified class (unlike her race, sex, and national origin claims), but simply for “arbitrary, vindictive, and malicious reasons.” App. 10.

The District Court granted the respondents’ motion for summary judgment as to some of Engquist’s claims, but allowed others to go forward, including each of the equal protection claims. As relevant to this case, the District Court found Engquist’s class-of-one equal protection claim

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legally viable, deciding that the class-of-one theory was fully applicable in the employment context. Civ. No. 02–1637–AS (D. Ore., Sept. 14, 2004), App. 58, 2004 WL 2066748, *5. The court held that Engquist could succeed on that theory if she could prove “that she was singled out as a result of animosity on the part of Hyatt and Szczepanski”—*i.e.*, “that their actions were spiteful efforts to punish her for reasons unrelated to any legitimate state objective”—and if she could demonstrate, on the basis of that animosity, that “she was treated differently than others who were similarly situated.” *Ibid.*

The jury rejected Engquist’s claims of discrimination for membership in a suspect class—her race, sex, and national origin claims—but found in her favor on the class-of-one claim. Specifically, the jury found that Hyatt and Szczepanski “intentionally treat[ed] [Engquist] differently than others similarly situated with respect to the denial of her promotion, termination of her employment, or denial of bumping rights without any rational basis and solely for arbitrary, vindictive or malicious reasons.” App. to Pet. for Cert. 3–4. The jury also found for Engquist on several of her other claims, and awarded her \$175,000 in compensatory damages and \$250,000 in punitive damages.

The Court of Appeals reversed in relevant part. It recognized that this Court had upheld a class-of-one equal protection challenge to state legislative and regulatory action in *Village of Willowbrook v. Olech*, 528 U. S. 562 (2000) (*per curiam*). 478 F. 3d 985, 992–993 (CA9 2007). The court below also acknowledged that other Circuits had applied *Olech* in the public employment context, *id.*, at 993 (citing cases), but it disagreed with those courts on the ground that our cases have routinely afforded government greater leeway when it acts as employer rather than regulator, *id.*, at 993–996. The court concluded that extending the class-of-one theory of equal protection to the public employment context would lead to undue judicial

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interference in state employment practices and “completely invalidate the practice of public at-will employment.” *Id.*, at 995. The court accordingly held that the class-of-one theory is “inapplicable to decisions made by public employers with regard to their employees.” *Id.*, at 996.

Judge Reinhardt dissented, “agree[ing] with the other circuits that the class-of-one theory of equal protection is applicable to public employment decisions.” *Id.*, at 1010. We granted certiorari to resolve this disagreement in the lower courts, 552 U. S. __ (2008), and now affirm.

II

Engquist argues that the Equal Protection Clause forbids public employers from irrationally treating one employee differently from others similarly situated, regardless of whether the different treatment is based on the employee’s membership in a particular class. She reasons that in *Olech, supra*, we recognized in the regulatory context a similar class-of-one theory of equal protection, Brief for Petitioner 14–15; that the Equal Protection Clause protects individuals, not classes, *id.*, at 15–17; that the Clause proscribes “discrimination arising not only from a legislative act but also from the conduct of an administrative official,” *id.*, at 17; and that the Constitution applies to the State not only when it acts as regulator, but also when it acts as employer, *id.*, at 23–29. Thus, Engquist concludes that class-of-one claims can be brought against public employers just as against any other state actors, *id.*, at 29–32, and that differential treatment of government employees—even when not based on membership in a class or group—violates the Equal Protection Clause unless supported by a rational basis, *id.*, at 32, 39–45.

We do not quarrel with the premises of Engquist’s argument. It is well settled that the Equal Protection

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Clause “protect[s] persons, not groups,” *Adarand Constructors, Inc. v. Peña*, 515 U. S. 200, 227 (1995) (emphasis omitted), and that the Clause’s protections apply to administrative as well as legislative acts, see, e.g., *Raymond v. Chicago Union Traction Co.*, 207 U. S. 20, 35–36 (1907). It is equally well settled that States do not escape the strictures of the Equal Protection Clause in their role as employers. See, e.g., *New York City Transit Authority v. Beazer*, 440 U. S. 568 (1979); *Harrah Independent School Dist. v. Martin*, 440 U. S. 194 (1979) (*per curiam*); *Massachusetts Bd. of Retirement v. Murgia*, 427 U. S. 307 (1976) (*per curiam*). We do not, however, agree that Engquist’s conclusion follows from these premises. Our traditional view of the core concern of the Equal Protection Clause as a shield against arbitrary classifications, combined with unique considerations applicable when the government acts as employer as opposed to sovereign, lead us to conclude that the class-of-one theory of equal protection does not apply in the public employment context.

A

We have long held the view that there is a crucial difference, with respect to constitutional analysis, between the government exercising “the power to regulate or license, as lawmaker,” and the government acting “as proprietor, to manage [its] internal operation.” *Cafeteria & Restaurant Workers v. McElroy*, 367 U. S. 886, 896 (1961). This distinction has been particularly clear in our review of state action in the context of public employment. Thus, “the government as employer indeed has far broader powers than does the government as sovereign.” *Waters v. Churchill*, 511 U. S. 661, 671 (1994) (plurality opinion). “[T]he extra power the government has in this area comes from the nature of the government’s mission as employer. Government agencies are charged by law with doing particular tasks. Agencies hire employees to help do those

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tasks as effectively and efficiently as possible.” *Id.*, at 674–675. See also *Connick v. Myers*, 461 U. S. 138, 150–151 (1983) (explaining that the government has a legitimate interest “in ‘promot[ing] efficiency and integrity in the discharge of official duties, and [in] maintain[ing] proper discipline in the public service’” (quoting *Ex parte Curtis*, 106 U. S. 371, 373 (1882) (alterations in original))). “The government’s interest in achieving its goals as effectively and efficiently as possible is elevated from a relatively subordinate interest when it acts as sovereign to a significant one when it acts as employer.” *Waters, supra*, at 675 (plurality opinion). Given the “common-sense realization that government offices could not function if every employment decision became a constitutional matter,” *Connick, supra*, at 143, “constitutional review of government employment decisions must rest on different principles than review of . . . restraints imposed by the government as sovereign,” *Waters, supra*, at 674 (plurality opinion).

In light of these basic principles, we have often recognized that government has significantly greater leeway in its dealings with citizen employees than it does when it brings its sovereign power to bear on citizens at large. Thus, for example, we have held that the Fourth Amendment does not require public employers to obtain warrants before conducting a search of an employee’s office. *O’Connor v. Ortega*, 480 U. S. 709, 721–722 (1987) (plurality opinion). See also *id.*, at 732 (SCALIA, J., concurring in judgment). Although we recognized that the “legitimate privacy interests of public employees in the private objects they bring to the workplace may be substantial,” we found that “[a]gainst these privacy interests . . . must be balanced the realities of the workplace, which strongly suggest that a warrant requirement would be unworkable.” *Id.*, at 721 (plurality opinion). We have also found that the Due Process Clause does not protect a public employee

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from discharge, even when such discharge was mistaken or unreasonable. See *Bishop v. Wood*, 426 U. S. 341, 350 (1976) (“The Due Process Clause of the Fourteenth Amendment is not a guarantee against incorrect or ill-advised personnel decisions”).

Our public-employee speech cases are particularly instructive. In *Pickering v. Board of Ed. of Township High School Dist. 205, Will Cty.*, 391 U. S. 563, 568 (1968), we explained that, in analyzing a claim that a public employee was deprived of First Amendment rights by her employer, we must seek “a balance between the interests of the [employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.”

We analyzed the contours of this balance more fully in *Connick v. Myers*, *supra*. We explained that the First Amendment protects public-employee speech only when it falls within the core of First Amendment protection—speech on matters of public concern. We recognized that the “First Amendment does not protect speech and assembly only to the extent it can be characterized as political,” and that the government therefore could not generally prohibit or punish, in its capacity as sovereign, speech on the ground that it does not touch upon matters of public concern, *id.*, at 147 (quoting *Mine Workers v. Illinois Bar Assn.*, 389 U. S. 217, 223 (1967)). But “[w]hen employee expression cannot be fairly considered as relating to any matter of political, social, or other concern to the community, government officials should enjoy wide latitude in managing their offices.” *Connick*, 461 U. S., at 146. As we explained, “absent the most unusual circumstances, a federal court is not the appropriate forum in which to review the wisdom of a personnel decision taken by a public agency allegedly in reaction to the employee’s behavior.” *Id.*, at 147 (citing *Bishop*, *supra*, at 349–350).

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Our precedent in the public-employee context therefore establishes two main principles: First, although government employees do not lose their constitutional rights when they accept their positions, those rights must be balanced against the realities of the employment context. Second, in striking the appropriate balance, we consider whether the asserted employee right implicates the basic concerns of the relevant constitutional provision, or whether the claimed right can more readily give way to the requirements of the government as employer. With these principles in mind, we come to the question whether a class-of-one theory of equal protection is cognizable in the public employment context.

B

Our equal protection jurisprudence has typically been concerned with governmental classifications that “affect some groups of citizens differently than others.” *McGowan v. Maryland*, 366 U. S. 420, 425 (1961). See, e.g., *Ross v. Moffitt*, 417 U. S. 600, 609 (1974) (“‘Equal Protection’ . . . emphasizes disparity in treatment by a State between classes of individuals whose situations are arguably indistinguishable”); *San Antonio Independent School Dist. v. Rodriguez*, 411 U. S. 1, 60 (1973) (Stewart, J., concurring) (“[T]he basic concern of the Equal Protection Clause is with state legislation whose purpose or effect is to create discrete and objectively identifiable classes”). Plaintiffs in such cases generally allege that they have been arbitrarily classified as members of an “identifiable group.” *Personnel Administrator of Mass. v. Feeney*, 442 U. S. 256, 279 (1979).

Engquist correctly argues, however, that we recognized in *Olech* that an equal protection claim can in some circumstances be sustained even if the plaintiff has not alleged class-based discrimination, but instead claims that she has been irrationally singled out as a so-called “class

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of one.” In *Olech*, a property owner had asked the village of Willowbrook to connect her property to the municipal water supply. Although the village had required only a 15-foot easement from other property owners seeking access to the water supply, the village conditioned Olech’s connection on a grant of a 33-foot easement. Olech sued the village, claiming that the village’s requirement of an easement 18 feet longer than the norm violated the Equal Protection Clause. Although Olech had not alleged that the village had discriminated against her based on membership in an identifiable class, we held that her complaint stated a valid claim under the Equal Protection Clause because it alleged that she had “been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.” 528 U. S., at 564 (citing *Sioux City Bridge Co. v. Dakota County*, 260 U. S. 441 (1923), and *Allegheny Pittsburgh Coal Co. v. Commission of Webster Cty.*, 488 U. S. 336 (1989)).

Recognition of the class-of-one theory of equal protection on the facts in *Olech* was not so much a departure from the principle that the Equal Protection Clause is concerned with arbitrary government classification, as it was an application of that principle. That case involved the government’s regulation of property. Similarly, the cases upon which the Court in *Olech* relied concerned property assessment and taxation schemes. See *Allegheny Pittsburgh*, *supra*; *Sioux City Bridge*, *supra*. We expect such legislative or regulatory classifications to apply “without respect to persons,” to borrow a phrase from the judicial oath. See 28 U. S. C. §453. As we explained long ago, the Fourteenth Amendment “requires that all persons subjected to . . . legislation shall be treated alike, under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed.” *Hayes v. Missouri*, 120 U. S. 68, 71–72 (1887). When those who appear simi-

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larly situated are nevertheless treated differently, the Equal Protection Clause requires at least a rational reason for the difference, to assure that all persons subject to legislation or regulation are indeed being “treated alike, under like circumstances and conditions.” Thus, when it appears that an individual is being singled out by the government, the specter of arbitrary classification is fairly raised, and the Equal Protection Clause requires a “rational basis for the difference in treatment.” *Olech*, 528 U. S., at 564.

What seems to have been significant in *Olech* and the cases on which it relied was the existence of a clear standard against which departures, even for a single plaintiff, could be readily assessed. There was no indication in *Olech* that the zoning board was exercising discretionary authority based on subjective, individualized determinations—at least not with regard to easement length, however typical such determinations may be as a general zoning matter. See *id.*, at 565 (BREYER, J., concurring in result). Rather, the complaint alleged that the board consistently required only a 15-foot easement, but subjected *Olech* to a 33-foot easement. This differential treatment raised a concern of arbitrary classification, and we therefore required that the State provide a rational basis for it.

In *Allegheny Pittsburgh*, cited by the *Olech* Court, the applicable standard was market value, but the county departed from that standard in basing some assessments on quite dated purchase prices. Again, there was no suggestion that the “dramatic differences in valuation” for similar property parcels, 488 U. S., at 341, were based on subjective considerations of the sort on which appraisers often rely, see *id.*, at 338–342, 345. *Sioux City Bridge*, also cited in *Olech*, was the same sort of case, recognizing an equal protection claim when one taxpayer’s property was assessed at 100 percent of its value, while all other prop-

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erty was assessed at 55 percent, without regard to articulated differences in the properties. See 260 U. S., at 445–447.

There are some forms of state action, however, which by their nature involve discretionary decisionmaking based on a vast array of subjective, individualized assessments. In such cases the rule that people should be “treated alike, under like circumstances and conditions” is not violated when one person is treated differently from others, because treating like individuals differently is an accepted consequence of the discretion granted. In such situations, allowing a challenge based on the arbitrary singling out of a particular person would undermine the very discretion that such state officials are entrusted to exercise.

Suppose, for example, that a traffic officer is stationed on a busy highway where people often drive above the speed limit, and there is no basis upon which to distinguish them. If the officer gives only one of those people a ticket, it may be good English to say that the officer has created a class of people that did not get speeding tickets, and a “class of one” that did. But assuming that it is in the nature of the particular government activity that not all speeders can be stopped and ticketed, complaining that one has been singled out for no reason does not invoke the fear of improper government classification. Such a complaint, rather, challenges the legitimacy of the underlying action itself—the decision to ticket speeders under such circumstances. Of course, an allegation that speeding tickets are given out on the basis of race or sex would state an equal protection claim, because such discriminatory classifications implicate basic equal protection concerns. But allowing an equal protection claim on the ground that a ticket was given to one person and not others, even if for no discernible or articulable reason, would be incompatible with the discretion inherent in the challenged action. It is no proper challenge to what in its nature is a subjective,

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individualized decision that it was subjective and individualized.

This principle applies most clearly in the employment context, for employment decisions are quite often subjective and individualized, resting on a wide array of factors that are difficult to articulate and quantify. As Engquist herself points out, “[u]nlike the zoning official, the public employer often must take into account the individual personalities and interpersonal relationships of employees in the workplace. The close relationship between the employer and employee, and the varied needs and interests involved in the employment context, mean that considerations such as concerns over personality conflicts that would be unreasonable as grounds for ‘arm’s-length’ government decisions (*e.g.*, zoning, licensing) may well justify different treatment of a public employee.” Brief for Petitioner 48. Unlike the context of arm’s-length regulation, such as in *Olech*, treating seemingly similarly situated individuals differently in the employment context is par for the course.

Thus, the class-of-one theory of equal protection—which presupposes that like individuals should be treated alike, and that to treat them differently is to classify them in a way that must survive at least rationality review—is simply a poor fit in the public employment context. To treat employees differently is not to classify them in a way that raises equal protection concerns. Rather, it is simply to exercise the broad discretion that typically characterizes the employer-employee relationship. A challenge that one has been treated individually in this context, instead of like everyone else, is a challenge to the underlying nature of the government action.

Of course, that is not to say that the Equal Protection Clause, like other constitutional provisions, does not apply to public employers. Indeed, our cases make clear that the Equal Protection Clause is implicated when the govern-

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ment makes class-based decisions in the employment context, treating distinct groups of individuals categorically differently. See, e.g., *Beazer*, 440 U. S., at 593 (upholding city’s exclusion of methadone users from employment under rational-basis review); *Martin*, 440 U. S., at 199–201 (classification between teachers who had complied with a continuing-education requirement and those who had not is rational and does not violate the Equal Protection Clause); *Murgia*, 427 U. S., at 314–317 (upholding a mandatory retirement age—a classification based on age—under rational-basis review). The dissent’s broad statement that we “excep[t] state employees from the Fourteenth Amendment’s protection against unequal and irrational treatment at the hands of the State,” *post*, at 2 (opinion of STEVENS, J.), is thus plainly not correct. But we have never found the Equal Protection Clause implicated in the specific circumstance where, as here, government employers are alleged to have made an individualized, subjective personnel decision in a seemingly arbitrary or irrational manner.

This is not surprising, given the historical understanding of the nature of government employment. We long ago recognized the “settled principle that government employment, in the absence of legislation, can be revoked at the will of the appointing officer.” *McElroy*, 367 U. S., at 896. The basic principle of at-will employment is that an employee may be terminated for a “good reason, bad reason, or no reason at all.” Reply Brief for Petitioner 27. See *Andrews v. Louisville & Nashville R. Co.*, 406 U. S. 320, 324 (1972) (“[T]he very concept of ‘wrongful discharge’ implies some sort of statutory or contractual standard that modifies the traditional common-law rule that a contract of employment is terminable by either party at will”). Thus, “[w]e have never held that it is a violation of the Constitution for a government employer to discharge an employee based on substantively incorrect information.”

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Waters, 511 U. S., at 679 (plurality opinion). See also *Connick*, 461 U. S., at 146–147 (“[O]rdinary dismissals from government service . . . are not subject to judicial review even if the reasons for the dismissal are alleged to be mistaken or unreasonable” (citing *Board of Regents of State Colleges v. Roth*, 408 U. S. 564 (1972); *Perry v. Sindermann*, 408 U. S. 593 (1972); and *Bishop*, 426 U. S. 341)). “And an at-will government employee . . . generally has no claim based on the Constitution at all.” *Waters*, *supra*, at 679 (plurality opinion). See, *e.g.*, *Bishop*, *supra*, at 349–350.

State employers cannot, of course, take personnel actions that would independently violate the Constitution. See *supra*, at 5–8. But recognition of a class-of-one theory of equal protection in the public employment context—that is, a claim that the State treated an employee differently from others for a bad reason, or for no reason at all—is simply contrary to the concept of at-will employment. The Constitution does not require repudiating that familiar doctrine.

To be sure, Congress and all the States have, for the most part, replaced at-will employment with various statutory schemes protecting public employees from discharge for impermissible reasons. See, *e.g.*, 5 U. S. C. §2302(b)(10) (2006 ed.) (supervisor of covered federal employee may not “discriminate . . . on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others”). See also Brief for United States as *Amicus Curiae* 20–21. But a government’s decision to limit the ability of public employers to fire at will is an act of legislative grace, not constitutional mandate.

Indeed, recognizing the sort of claim Engquist presses could jeopardize the delicate balance governments have struck between the rights of public employees and “the government’s legitimate purpose in ‘promot[ing] efficiency

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and integrity in the discharge of official duties, and [in] maintain[ing] proper discipline in the public service.” *Connick, supra*, at 151 (quoting *Ex parte Curtis*, 106 U. S., at 373; alterations in original). Thus, for example, although most federal employees are covered by the Civil Service Reform Act of 1978, Pub. L. 95–454, Congress has specifically excluded some groups of employees from its protection, see, e.g., 5 U. S. C. §2302(a)(2)(C) (2006 ed.) (excluding from coverage, *inter alia*, the Federal Bureau of Investigation, the Central Intelligence Agency, and the Defense Intelligence Agency). Were we to find that the Equal Protection Clause subjects the Government to equal protection review for every allegedly arbitrary employment action, we will have undone Congress’s (and the States’) careful work.

In concluding that the class-of-one theory of equal protection has no application in the public employment context—and that is all we decide—we are guided, as in the past, by the “common-sense realization that government offices could not function if every employment decision became a constitutional matter.” *Connick, supra*, at 143. If, as Engquist suggests, plaintiffs need not claim discrimination on the basis of membership in some class or group, but rather may argue only that they were treated by their employers worse than other employees similarly situated, any personnel action in which a wronged employee can conjure up a claim of differential treatment will suddenly become the basis for a federal constitutional claim. Indeed, an allegation of arbitrary differential treatment could be made in nearly every instance of an assertedly wrongful employment action—not only hiring and firing decisions, but any personnel action, such as promotion, salary, or work assignments—on the theory that other employees were not treated wrongfully. See 478 F. 3d, at 995. On Engquist’s view, every one of these employment decisions by a government employer would

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become the basis for an equal protection complaint.

Engquist assures us that accepting her view would not pose too much of a practical problem. Specifically, Engquist argues that a plaintiff in a class-of-one employment case would have to prove that the government's differential treatment was intentional, that the plaintiff was treated differently from other similarly situated persons, and that the unequal treatment was not rationally related to a legitimate government purpose. Brief for Petitioner 36–39. And because a “governmental employment decision is . . . rational whenever the discrimination relates to a legitimate government interest,” it is in practice “difficult for plaintiffs to show that the government has failed to meet this standard.” *Id.*, at 41. JUSTICE STEVENS makes a similar argument, stating “that all but a handful [of class-of-one complaints] are dismissed well in advance of trial.” *Post*, at 7.

We agree that, even if we accepted Engquist's claim, it would be difficult for a plaintiff to show that an employment decision is arbitrary. But this submission is beside the point. The practical problem with allowing class-of-one claims to go forward in this context is not that it will be too easy for plaintiffs to prevail, but that governments will be forced to defend a multitude of such claims in the first place, and courts will be obliged to sort through them in a search for the proverbial needle in a haystack. The Equal Protection Clause does not require “[t]his displacement of managerial discretion by judicial supervision.” *Garcetti v. Ceballos*, 547 U. S. 410, 423 (2006).

In short, ratifying a class-of-one theory of equal protection in the context of public employment would impermissibly “constitutionalize the employee grievance.” *Connick*, 461 U. S., at 154. “The federal court is not the appropriate forum in which to review the multitude of personnel decisions that are made daily by public agencies.” *Bishop*, *supra*, at 349. Public employees typically have a variety of

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protections from just the sort of personnel actions about which Engquist complains, but the Equal Protection Clause is not one of them.

The judgment of the Court of Appeals is affirmed.

It is so ordered.