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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Krystal Mitchell,  
Department of Human Services

CSC Docket No. 2016-3097

Classification Appeal

ISSUED: **JAN 23 2017**

(RE)

Krystal Mitchell requests a retroactive appointment date as an Office Supervisor to November 1, 2011 with the Department of Human Services as a result of the attached classification determination of the Division of Agency Services (DAS).

By way of background, Ms. Mitchell received a regular appointment to the title Principal Clerk Typist on January 29, 2000. The petitioner claims that she was acting as an Office Supervisor in the Division of Aging Services, Community Choice Options, Northern Region (Division) from November 1, 2011, forward. Ms. Mitchell completed and submitted to her supervisor a Position Classification Questionnaire (PCQ) on December 31, 2013. The PCQ was signed by her supervisor on January 14, 2014, but the sections for the Program Manager or Division Director, and the Appointing Authority are blank. It was explained by the appointing authority that the PCQ was not forwarded by the Director because of concerns regarding the potential impact to the petitioner related to the multiple layoffs within the department.<sup>1</sup>

Thereafter, on February 25, 2015, a second PCQ, which was signed by the petitioner and her supervisor on January 14, 2015, was forwarded to the Central Office. The Division indicated that it supported the appeal, as it was unable to promote the petitioner due to two layoffs and a promotional job freeze. On March 2,

<sup>1</sup> On March 28, 2014, a layoff plan due to the closure of North Jersey Developmental Center was submitted to the Civil Service Commission, and the layoff was completed on July 1, 2014. On July 3, 2014, the Department of Human Services submitted to the Civil Service Commission the layoff plan for the January 5, 2015 layoff due to the closure of Woodbridge Developmental Center.

2015, the Central Office asked the Division to submit a Freeze Exemption Request if it agreed with the requested classification. On December 24, 2015, CWA Local 1039 sent a letter to the Civil Service Commission stating that the Central Office had not submitted the PCQ within 10 days in accordance with *N.J.A.C. 4A:3-3.9(c)7*, although layoffs and appointments from Special Reemployment Lists (SRLs) had ceased. Commission staff requested the classification materials from the Central Office on January 7, 2016, and thereafter received the materials on January 13, 2016. DAS issued the attached determination on February 10, 2016 that the classification of the appellant's position was Office Supervisor, effective February 5, 2016.

On appeal, the petitioner argues that she was working out-of-title from November 1, 2011 to February 4, 2016. She states that by April or May of 2014, when she received no response to her classification request, she contacted the Regional Manager who explained to her that she did not want to submit the PCQ in fear that Ms. Mitchell would be bumped in the upcoming June 2014 layoff. The petitioner states that on June 3, 2014, after her class code had been processed for the layoff but before the end of the layoff, she asked Human Resources to resubmit her PCQ. She was told at this point that there was a hiring freeze, but once that was lifted, her paperwork would be submitted. In October 2014, the petitioner states that she was told that the hiring freeze would be lifted in January 2015.

## CONCLUSION

*N.J.A.C. 4A:3-3.9(c)3* states that the supervisor and program manager/division director shall complete their portions of a PCQ and provide their signatures on the form in accordance within 15 days of the employee's submission of the appeal to the immediate supervisor. By no later than the end of this period, the program manager/division director shall submit to the agency representative the completed questionnaire.

*N.J.A.C. 4A:3-3.9(c)7* states that the agency representative shall review the appeal, affix to it an organizational chart, and ensure that the required information has been included and within 10 days of receipt of the appeal, the agency representative shall either notify the appellant that specific additional information is required, or forward the appeal with organizational chart to the appropriate representative of the Civil Service Commission. The agency representative may in writing indicate with the submitted appeal a recommended approval or rejection of the appeal for specified reasons. The agency representative shall notify the appellant of the submission to the Commission representative. If additional information is required of the appellant, the agency representative shall forward the appeal with organizational chart and the additional information to the appropriate representative of the Civil Service Commission within 10 days of receipt of the appellant's response to the request for additional information.

*N.J.A.C. 4A:3-3.9(e)3i*, states that the effective date of a reclassification action in State service should be the pay period immediately after 14 days from the date the Commission received the appeal or reclassification request, or at such earlier date as directed by the Commission.

*N.J.A.C. 4A:8-1.3(a)3* states that appointing authorities shall lessen the possibility, extent or impact of layoffs by implementing, as appropriate, pre-layoff actions which may include, but are not limited to returning provisional employees to their permanent titles.

In the instant matter, the petitioner filed for a classification review in the same year, 2014, that two layoffs were administered in the Department of Human Services due to the closing of institutions. The layoff dates were July 1, 2014 and January 5, 2015, and the Department of Human Services was instructed to prepare for these layoffs in a directive from the Task Force on the Closure of Developmental Centers in August 2012.

Next, in the successful award of a classification appeal, the incumbent receives a provisional appointment. Nonetheless, returning provisional employees to their permanent titles could have been a pre-layoff action required of the appointing authority to lessen the extent or impact of layoffs. If the PCQ had been forwarded by the Division Director in January 2014, and a successful determination was made at that time, the petitioner may have been simply returned to her regular title or she could have been bumped in the layoff process. Nevertheless, while her request was not forwarded, her higher-level duties were also not taken away, and she was not affected in the layoffs. As such, the Division Director erred in not processing the request because it could create a provisional appointment during a layoff.<sup>2</sup> Also, a promotional advancement as a result of a classification appeal does not require a Freeze Exemption Request.

Given that the Director failed to forward the PCQ, but also did not remove the petitioner's Office Supervisor duties, there is a basis to grant an earlier effective date for the petitioner. The first PCQ was signed by the petitioner on December 31, 2013, the petitioner's supervisor's on January 14, 2014, and the Manager on February 25, 2014. Accordingly, pursuant to *N.J.A.C. 4A:3-3.9(c)3*, the appeal should have been forwarded to the Human Resources office no later than March 12, 2014. Then, absent any additional information that may have been required, the appeal should have been forwarded to DAS by March 22, 2014. As such, pursuant to *N.J.A.C. 4A:3-3.9(e)3i*, the effective date of Ms. Mitchell's provisional appointment to Office Supervisor should be changed to April 19, 2014 and she should receive differential pay from April 19, 2014 to February 5, 2016.

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<sup>2</sup> It is noted that there were four incumbent Office Supervisors in the Department of Human Services, and they were not affected in either layoff.

ORDER

Therefore, the effective date of the provisional appointment of Krystal Mitchell to Office Supervisor is properly determined as April 19, 2014 and she should receive differential pay from April 19, 2014 to February 5, 2016.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
ON THE 18<sup>th</sup> DAY OF JANUARY, 2017

  
Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P. O. Box 312  
Trenton, New Jersey 08625-0312

Enclosure

c: Krystal Mitchell  
Denise Meckel  
Christina Mongon  
Kelly Glenn  
Records Center



Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
DIVISION OF AGENCY SERVICES  
P.O. Box 313  
Trenton, New Jersey 08625-0313

Robert M. Czech  
Chair/Chief Executive Officer

February 10, 2016

Krystal Mitchell  
[REDACTED]  
[REDACTED]

**Re: Classification Appeal – Principal Clerk Typist (23234/R12); Position #652159; CPM  
Log #01160100; EID #000358430**

Dear Ms. Mitchell:

This is in response to the classification appeal received January 13, 2016 submitted to this office on your behalf by Ms. Christina Mongon, Assistant Commissioner. The package indicates you are appealing your current permanent title of Principal Clerk Typist (23234/R12) and you believe the appropriate classification of your position is Office Supervisor (21856/S18). Your position is located in the New Jersey Department of Human Services, Division of Aging Services, Community Choice Options, Northern Region.

This office has conducted a review of the submitted information, including the Position Classification Questionnaire (DPF-44S); a recent Performance Assessment Review; your statements; and the statements of your supervisor (Janet Siegal, Program Support Specialist 1). Based on the written record and the aforementioned parties are in agreement with the stated duties, it is our determination the appropriate classification of your position is that of Office Supervisor (21856/S18). This action shall be effective February 5, 2016.

This classification determination does not imply that you will meet the eligibility requirements of the title. It is the responsibility of the appointing authority to ensure that an incumbent meets the eligibility requirements prior to any appointment.

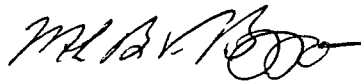
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The New Jersey Administrative Code 4A:3-3.5(c)1 states that "within 30 days of receipt of the reclassification determination, unless extended by the [Commission] in a particular case for good cause, the appointing authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to the duties and responsibilities to which the employee has permanent rights. Any change in the classification of a permanent employee's position, whether promotional, demotional or lateral, shall be effected in accordance with all applicable rules."

Within 30 days of receipt of this letter, the Civil Service Commission will implement reclassification procedures to reclassify this position to the title Office Supervisor (21856/S18) unless we are advised by the appointing authority that out of title duties and responsibilities not commensurate with your permanent title will be reassigned.

Please be advised, in accordance with *N.J.A.C. 4A:3-3.9*, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Merit System Practices and Labor Relations, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Mark B. Van Bruggen,  
Supervising HR Consultant

AGL/MVB

C: Christina Mongon, Department of Human Services  
Denise Meckel, Department of Human Services, Division of Aging Services  
PMIS Unit, CSC

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