

B-28



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Salimah Scott  
Cobberrt, Department of the  
Treasury

Administrative Appeal

CSC Docket No. 2016-4279

ISSUED: FEB 10 2017 (HS)

Salimah Scott Cobberrt requests an earlier effective date of her reclassification and a retroactive permanent appointment date to the title of Auditor 2, Taxation.

By way of background, the eligible list for Auditor 2, Taxation (PS2369U), Department of the Treasury, consisting of 100 names, promulgated on April 4, 2013 and expired on February 1, 2017.<sup>1</sup> Sixty-nine eligibles were appointed. The names of 16 active eligibles, including the appellant,<sup>2</sup> a non-veteran, remain on the eligible list. The appellant is the third listed eligible. On March 29, 2016, the Division of Agency Services (Agency Services) received the appellant's request for a classification review of her position. On May 10, 2016, Agency Services issued the attached classification determination finding that the most appropriate classification for the appellant's position, located in Bergen County, was Auditor 2, Taxation, effective April 16, 2016.<sup>3</sup> The appellant was provisionally appointed to that title, effective that same date.

<sup>1</sup> The original expiration date of the eligible list was April 3, 2016. The Department of the Treasury requested that the list be revived and extended to effectuate Tomasz Petrykiewicz's appointment. See *In the Matter of Tomasz Petrykiewicz* (CSC, decided December 7, 2016).

<sup>2</sup> Agency records indicate that the appellant's name was removed from the list on the basis of non-response to the November 28, 2014 certification. The disposition of this certification was recorded by this agency on February 26, 2015. The appellant appealed, and her name was restored.

<sup>3</sup> It is noted that the appellant is the highest ranked eligible remaining on the PS2369U eligible list who chose Bergen County as a preferred geographic employment preference.



In her appeal to the Civil Service Commission (Commission) postmarked June 2, 2016, the appellant states that she is responding to the above-referenced classification determination. Initially, the appellant claims that there was an administrative delay in restoring her name to the PS2369U eligible list. In this regard, she asserts that she was only informed on May 11, 2015 that her name had been removed from the November 28, 2014 certification. That same day, she e-mailed Agency Services a request to have her name restored to the eligible list. The appellant followed up on her request with subsequent e-mails on May 15, 2015, June 18, 2015 and December 4, 2015, respectively. Her name was restored on December 10, 2015. The appellant states that between May 2015 and January 2016, a certification was issued for a vacancy in the Newark field audit office.<sup>4</sup> However, due to the delay in restoring her name to the subject eligible list, she did not receive this certification and missed an opportunity to accept the position as she had indicated on her application that she would accept employment in all counties.

In addition, the appellant requests that the effective date of the reclassification of her position to Auditor 2, Taxation be changed to April 2, 2016 and that she be granted a retroactive date of permanent appointment. In this regard, she states that she submitted her Position Classification Questionnaire to upper management on March 3, 2016. On March 18, 2016, she provided a recent Performance Assessment Review (PAR) form and organizational chart to complete the package, per the appointing authority's request. On March 23, 2016, she re-submitted her PAR form, per another request from the appointing authority. The package was officially accepted by human resources on March 29, 2016, and the PS2369U list was active at that time. The appellant contends that due to the unusual timing of human resources' receipt of the classification package and the delay in restoring her name to the PS2369U list in 2015, April 2, 2016 is an appropriate effective date of reclassification. The appellant adds that she unquestionably performs duties consistent with the title of Auditor 2, Taxation and is more than capable of maintaining the title. Thus, the appellant also seeks a retroactive permanent appointment to the title, effective April 2, 2016.

In response, the appointing authority indicates that there is no objection to changing the effective date of the appellant's reclassification. However, it does not indicate support for a retroactive date of permanent appointment.

It is noted that no promotional examination announcement for Auditor 2, Taxation is pending.

---

<sup>4</sup> Agency records indicate that certifications were issued for Essex County on October 29, 2015 and November 30, 2015, respectively. The dispositions for these certifications were recorded by this agency on November 27, 2015 and March 4, 2016, respectively. It is noted that if the appellant's name had appeared on the October 29, 2015 certification, her name would have been the third-listed. It is further noted that if the appellant's name had appeared on the November 30, 2015 certification, her name would have been the first-listed; however, she would have held the same rank as the second- and third-listed eligibles.



## CONCLUSION

*N.J.A.C.* 4A:2-1.1(b) provides that an appeal shall be filed within 20 days of notice of the action, decision, or situation being appealed. The appellant's appeal, in part, presents a complaint regarding the amount of time taken to have her name restored to the eligible list for Auditor 2, Taxation (PS2369U). It is noted that the appellant's name was restored to the list in December 2015. However, she did not question the time taken to have her name restored until June 2, 2016. Additionally, the appellant did not address the timeliness of this issue. The purpose of time limitations is not to eliminate or curtail the rights of appellants, but to establish a threshold of finality. In the instant case, the appellant's delay in presenting an appeal regarding the restoration of her name to the list unreasonably exceeds that threshold of finality. Thus, that part of the appellant's appeal concerning her restoration to the list is untimely.

Nor is there any basis in this particular case to extend or relax the time for appeal. See *N.J.A.C.* 4A:1-1.2(c) (the Commission has the discretionary authority to relax rules for good cause). In this regard, it is appropriate to consider whether the delay in asserting her right to appeal was reasonable and excusable. *Appeal of Syby*, 66 *N.J. Super.* 460, 464 (App. Div. 1961) (construing "good cause" in appellate court rules governing the time for appeal); *Atlantic City v. Civil Service Com'n*, 3 *N.J. Super.* 57, 60 (App. Div. 1949) (describing the circumstances under which delay in asserting rights may be excusable). Among the factors to be considered are the length of delay and the reasons for the delay. *Lavin v. Hackensack Bd. of Educ.*, 90 *N.J.* 145 (1982). In this case, the appellant has not presented any substantive reason that would excuse the delay in appealing. Accordingly, the appellant's appeal as it pertains to the restoration of her name to the list is untimely, and good cause to justify relaxing the requirements of *N.J.A.C.* 4A:2-1.1(b) has not been shown.

With regard to the appellant's request to change the effective date of her reclassification to April 2, 2016, pursuant to *N.J.A.C.* 4A:3-3.9(f), the effective date of implementation of a position reclassification shall be the pay period immediately after 14 days from the date an appropriate Commission representative first received the appeal or reclassification request, or at such earlier date as directed by the Commission. Agency Services received the appellant's reclassification request on March 29, 2016, and appropriately set the effective date of reclassification as April 16, 2016 according to the cited rule. However, while the Commission notes that the appointing authority processed the appellant's classification request in a prompt manner, given that it has indicated no objection to a change in the effective date of reclassification and her reclassification request was filed prior to the initial expiration date of the (PS2369U) eligible list, the date shall be recorded as April 2, 2016.



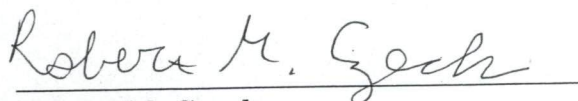
Finally, it is noted that the appellant also seeks a retroactive date of permanent appointment. *N.J.S.A.* 11A:4-6 and *N.J.A.C.* 4A:4-3.4 provide that an eligible list may be revived in order to implement a court order or decision of the Commission in the event of a successful appeal instituted during the life of a list, to correct an administrative error, or for other good cause. *N.J.S.A.* 11A:4-6 and *N.J.A.C.* 4A:4-3.3(b)1 provide that no list shall have a duration of more than four years. Additionally, *N.J.A.C.* 4A:4-1.10(c) provides that when a regular appointment has been made, the Commission may order a retroactive appointment date due to administrative error, administrative delay or other good cause, on notice to affected parties. In this matter, the record establishes that the appellant was the third listed eligible remaining on the eligible list for Auditor 2, Taxation (PS2369U). Since the Commission has determined that the appellant's position should be reclassified to Auditor 2, Taxation, effective April 2, 2016, this effective date fell within the life of the eligible list. In addition, as she was the third listed eligible, the appellant would have been reachable for appointment in April 2016. See *N.J.A.C.* 4A:4-4.8(a)3. Given the unique circumstances of this case, good cause has been established to revive the PS2369U eligible list so that a certification may be issued against the appellant's position. If the appellant is regularly appointed, she shall be given a retroactive date of permanent appointment to April 2, 2016, upon successful completion of a current working test period, for salary step placement and seniority-based purposes only.

### ORDER

Therefore, it is ordered that the effective date of reclassification for the appellant's position be changed to April 2, 2016. It is further ordered that the eligible list for Auditor 2, Taxation (PS2369U), Department of the Treasury be revived and a certification be issued against the appellant's position. If the appellant is regularly appointed, she shall be given a retroactive date of permanent appointment to April 2, 2016, upon successful completion of a current working test period, for salary step placement and seniority-based purposes only.

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 8<sup>TH</sup> DAY OF FEBRUARY, 2017



Robert M. Czech  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

Attachment

- c. Salimah Scott Cobbett  
Douglas Ianni  
Kelly Glenn  
Records Center





STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
AGENCY SERVICES  
P. O. Box 314  
Trenton, New Jersey 08625-0314

Robert M. Czech  
Chair/Chief Executive Officer

Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

May 10, 2016

Ms. Salimah Scott-Cobbertt  
[REDACTED]  
[REDACTED]  
[REDACTED]

RE: Classification Appeal - Auditor 3, Taxation  
AS Log# [REDACTED] Position# [REDACTED] EID# [REDACTED]

Dear Ms. Scott-Cobbertt:

This is in response to the classification appeal dated Mach 29, 2016 submitted to this office on your behalf by Douglas J. Ianni, Human Resource Officer. The package indicates you are appealing your current permanent title of Auditor 3, Taxation (P22- 50814) and you believe the appropriate classification of your position is Auditor 2, Taxation (P25- 50816). Your position is located in the Division of Taxation, Audit Activity, Field Audit Branch, Hackensack K.

This office has conducted a review of the submitted information, including the Position Classification Questionnaire (DPF-44S); organization chart; your statements; and the statements of your immediate supervisor, Program Manager or Division Director. Based on the written record and the aforementioned parties' comments are in agreement with the stated duties, it is our determination that the appropriate classification of your position Auditor 2, Taxation (P25- 50816). This action shall be effective April 16, 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.

Ms. Salimah Scott- Cobbertt  
April 10, 2016  
Page 2

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 Commissioner 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 application rules."

Within 30 days of receipt of this letter, we will implement reclassification procedures to reclassify this position to the Auditor 2, Taxation (P25- 50816) 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 that 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. This appeal should be addressed to Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, 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,



Joseph Ridolfi, Team Leader  
Agency Services

JR/io

c: Ms. Laura Budzinski, Treasury, Human Resources  
PMIS Unit, CSC