



STATE OF NEW JERSEY

In the Matter of Leonor Esculne-
Mamroud, Department of Labor and
Workforce Development

CSC Docket No. 2023-1840

**FINAL ADMINISTRATIVE ACTION
OF THE CHAIR/
CHIEF EXECUTIVE OFFICER
CIVIL SERVICE COMMISSION**

Classification Appeal

ISSUED: August 9, 2023 (SLK)

Leonor Esculne-Mamroud appeals the determination of the Division of Agency Services (Agency Services) that the proper classification of her position with the Department of Labor and Workforce Development is Senior Employment Counselor (SEC). The appellant seeks an Employment Supervisor 2 (ES2) classification.

The record in the present matter establishes that the appellant's permanent title is SEC. The appellant sought reclassification of her position, alleging that her duties were more closely aligned with the duties of an ES2. The appellant reports to Poo Lin, Manager 1, Workforce New Jersey, and she has no supervisory duties. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the duties that she performs as a SEC. Agency Services reviewed and analyzed the PCQ and all information and documentation submitted. Agency Services also interviewed the appellant about her duties. Agency Services found that the appellant's primary duties and responsibilities entailed, among other things: responsibility for the delivery of orientations and the production and review of all subsequent reports to be submitted to the Board of Social Services; reviewing operational needs and ensuring there is adequate staff coverage for the unit; discussing staff performance issues and making recommendations for corrective action; making recommendations for the hiring and disciplining of employees; training new staff members regarding office personnel and procedures; providing technical assistance and recommending training needs that would enhance work performance; organizing plans to cope with the unusual or infrequent situations such

as mass hiring or layoff; and maintaining records and files. In its decision, Agency Services determined that the duties performed by the appellant were consistent with the definition and examples of work included in the job specification for SEC.

On appeal, the appellant presents that she has been the “Acting Deputy” for the past 11 years as she performs many supervisory functions, which she highlights in her current Performance Assessment Review (PAR), and she acts as the Manager in the Manager’s absence. She indicates that on her PCQ, she listed all the employees that she supervised and her Manager has never objected to any of her decisions. She also submits a PAR for the rating cycle ending March 31, 2014, where she was the Rater for an employee, and she states that she has been the Rater for many employee PARs. The appellant asserts that no One Stop Career Center has ever had an ES2 who supervised an Employment Supervisor 1 (ES1). She contends that an ES2 is for an office with a Manager 1 and an ES1 is for an office with a Manager 2 or smaller office. The appellant claims that an ES2 and ES1 have never worked together. She emphasizes that she has been selected to attend supervisory trainings and she was determined eligible for a prior ES2 Civil Service examination.

The appellant notes that she has worked for the State for more than 30 years and her PARs reflect how she performs as an employee. She emphasizes that her Manager lists her as the Acting Deputy Manager, and he informed the Assistant Commissioner that she is fulfilling the ES2 role since the position has been vacant since 2012. She reiterates that there is no other supervisor in the One Stop Center where she works. The appellant indicates that she was selected by the Manager to attend PAR trainings to do the job of evaluating employment interviewers and counselors, which she believes is an ES2 duty. She notes that she corrects and updates E-Cats, and she submits attendance reports as she has supervisory organizational administrator privileges and approves timesheets for staff. The appellant argues that she presented 16 ES2 duties on her PCQ while the determination was based on an abstract notion that an ES2 supervises an ES1, which has not been the case during her 30 years of employment. She reiterates that her Manager approved her PAR, which was also signed by the Executive Director of Career Services, that documents her duties, which she believes are ES2 duties, and she asserts that the designation on her PAR that she functions as Acting Deputy Manager indicates that she is performing duties that are higher than SEC duties. The appellant submits a May 2022 letter from her Manager, which indicated that he supported her appeal.

Additionally, the appellant presents that under prior management from 2013 to 2016, she was selected to be the Rater for PARs, and she submits several PARs from this time as proof. She indicates she performed this responsibility out-of-title and without compensation until the Civil Service Commission (Commission) advised the appointing authority to stop this practice. Although she is no longer signing

PARs, she believes that she is currently performing supervisory duties out-of-title, such as E-Cats duties, without compensation.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the SEC (P22) job specification states:

Under the general supervision of an Employment Supervisor or Manager, serves as team or program leader responsible for employment counseling, selective placement, and employability development; does other related duties.

The definition section of the ES2 (S27) job specification states:

Under the direction of a Manager 1, or other higher level supervisory official, in a comprehensive One-Stop Career Center in the Department of Labor and Workforce Development, functions as the Deputy Manager, recommends goals for and supervises interviewing and counseling staff delivering multiple job search assistance and training programs tailored to Unemployment Insurance claimants, Temporary Assistance for Needy Families/General Assistance/Food Stamps recipients, military service veterans, ex-offenders, jobseekers with little previous workforce experience, and other population subgroups looking for employment; monitors, evaluates, and reports outcomes for various programs and services; schedules staff activities; plans goals for the office; supervises Employment Supervisors 1, other lower-level staff and all work activities; prepares and signs official performance evaluations for subordinate staff; does related work as required.

In this present matter, a review of the job specification definition sections indicates that the key distinguishing characteristic between the two titles is that ES2s are second level supervisors who supervise ES1s and other lower-level staff, which includes preparing and signing performance evaluations for subordinate staff, while SECs are team or program leaders who are not supervisors as they do not sign PARs. Therefore, as the record indicates that the appellant does not presently have the responsibility of signing PARs, her position cannot be classified in a supervisory title, let alone in a second-level supervisory title like ES2.

Concerning the appellant's belief that her position should be reclassified to ES2 because she makes decisions for her team with little or no supervision, she has been selected to attend supervisor trainings, she has E-Cats responsibility, she previously signed PARs, she performs 16 duties that she believes are supervisory duties including duties that were previously performed by an ES2, and the determination that she is not a supervisor because she does not presently have PAR responsibility is abstract, performance evaluation authority is a reasonable standard because it is the means by which it can be demonstrated that a supervisor can exercise his or her authority to recommend hiring, firing, and disciplining of subordinate employees. Simply stated, the actual authority and exercise of performance evaluation of subordinate staff is what makes a supervisor a supervisor. Performance evaluation of subordinates, and its myriad of potential consequences to the organization, is the key function of a supervisor which distinguishes him or her from a "lead worker." See *In the Matter of Alexander Borovskis, et al.* (MSB, decided July 27, 2005). Moreover, while the appellant claims that there are no One Stop Career Centers that have ES2s who supervise ES1s, it noted that the organization chart for the New Brunswick One-Stop Career Center does indicate that it is organized to have an ES2 supervise an ES1, even though both positions are listed as vacated. It is also noted that under Civil Service law and rules, there is no requirement that an appointing authority fill vacant positions. Regardless, even if there are no One Stop Career Centers that have ES2s supervising ES1s, incumbents in second level supervisory titles are required to supervise positions that are classified as primary, or first level supervisory titles. See *In the Matter of David Bobal, et al.* (CSC, decided November 23, 2016) and *In the Matter of Nanci Carr* (CSC, decided November 23, 2016). In other words, the appellant cannot be classified in an "S" Employee Relations Group title without second level supervisory responsibility.

Referring to the appellant's Manager identifying the appellant as the Acting Deputy Manager, the Commission does not recognize acting positions. Similarly, regarding the appellant's Manager's support of her appeal, while such comments can be considered by this agency in making its determination, it is the Commission, or its designee, which is responsible for determining position classification. Further, the fact that the appellant acts as the Manager in the Manager's absence is not a basis to reclassify her position as occasionally performing the duties of a higher-level employee in his or her absence is not a basis for reclassification of the lower-level position. See *In the Matter of Benjamin Ritter* (CSC, decided July 13, 2011).

Regarding the fact that the appellant was previously determined eligible for an ES2 examination, this does not signify that she was performing the duties of an ES2 as this simply indicates that she met the requirements for that examination which allowed her to compete for an appointment to that title. Concerning that the appellant previously signed PARs out-of-title, as she was not in a supervisory title while performing this responsibility, she should not have had this duty and such responsibility was appropriately removed. Moreover, classification of a position is

based on a review of the duties at the time of the request, and duties that were performed in the past cannot be considered. Similarly, as the appellant does not currently have PAR responsibility, the appellant should also not have E-Cats responsibility, and the appointing authority is directed to remove this duty from the appellant. Regardless, for the reasons presented above, the proper classification of the appellant's position is SEC.

ORDER

Therefore, it is ordered that this appeal be denied.

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

DECISION RENDERED BY THE
THE 8TH DAY OF AUGUST, 2023



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