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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Saramma Anil,
Department of Human Services

CSC Docket No. 2015-991

Request for Reconsideration

ISSUED: DEC - 5 2014 (RE)

Saramma Anil, a Principal Clerk Typist with the Department of Human Services, Greystone Park Psychiatric Hospital, represented by Christopher Young, CWA Local 1040, petitions the Civil Service Commission for reconsideration of the decision rendered on September 3, 2014, which found that her layoff title rights criteria were correctly applied. A copy of that decision, entitled *In the Matter of Saramma Anil, Department of Human Services* (Civil Service Commission, decided September 3, 2014), is attached hereto and incorporated herein.

By way of background, the appellant was bumped from her Principal Clerk Typist regular appointment as a result of layoff on June 27, 2014, and she laterally displaced another Principal Clerk Typist at Greystone Park Psychiatric Hospital. At the time of the layoff, the appellant was a provisional pending qualifying examination Technical Assistant 3. The appellant argued that she was a provisional pending qualifying examination Technical Assistant 3 since August 2011, and had submitted a completed application for permanency in her title. She was told that it was under process, and not to submit an application when a promotional examination was announced. She stated that since her paperwork was not processed promptly, she was not appointed to the Technical Assistant 3 title. The promotional examination resulted in an incomplete eligible list but the appellant was told that that list had to be exhausted. She stated that she could have been appointed in the face of an incomplete list, and she requested to be returned to the Technical Assistant 3 title and made permanent. The Commission explained the situation regarding the appellant's Qualifying Examination, and that permanency in a title is a result of certification from an eligible list and completion

of a working test period. The Commission also noted that the appellant did not raise the claim that she was told not to file for the PS1794K promotional examination until May 2014, more than a year after the Department of Human Services was told that the list had to be exhausted before Ms. Anil could be appointed permanently with a qualifying examination.

In the present matter, the appellant indicated that there was a clear material error as she filed her application for Qualifying Examination in March 2012, and the Commission relied on information regarding the examination for Technical Assistant 3 (PS1749K) which was not "promulgated" until July 26, 2012.¹ She states that her application "should have been processed" and responded to prior to the promulgation of the list. She also argues that a special reemployment list would not have been in existence until June 2012, when Hagedorn Psychiatric Hospital closed.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) provides that a petition for reconsideration must show the following:

1. New evidence or additional information not presented at the original proceeding which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

Applying this standard to the instant matter, the petitioner has not demonstrated that reconsideration should be granted. The appellant's concerns were addressed in the decision below and she has not demonstrated that a clear material error has occurred or presented new information which would change the outcome. The appellant is, essentially, arguing that the Division of Selection Services (DSS) should have processed her qualifying examination faster, as it was aware of a pending announcement for the title (PS1794K). This is not evidence of an error in title rights, but is an eligibility issue. It is also untimely, as she did not raise a claim regarding being told not to file for the PS1794K promotional examination until more than a year had passed. Her argument that the Commission's explanation of the matter, which included information regarding the PS1794K promotional examination, is an error, is unsupported. She is discontented with the amount of time it took to process her qualifying examination, and seeks an appointment to Technical Assistant 3 based on circumstances which may have been

¹ The eligible list was issued on January 30, 2013 and actually promulgated on February 7, 2013. The examination had a closing date of August 21, 2012, and DSS *was aware* that it would be announced earlier than the announcement date, August 1, 2012, as the announcement is planned in advance.

in place prior to DSS's September 2012 determination. And she did not bring up the issue of her discontent until May 2014, when faced with title rights to her permanent title in the June 27, 2014 layoff. Due to the volume of examinations and other administrative concerns, all applications cannot be processed within a few months of receipt. In this case, the determination was provided five months after receipt of the application. There is no indication of a clear material error of the application of title rights criteria.

In *Thomas v. McGrath*, 75 N.J. 372 (1978), the court addressed the issue of specifying the time when a Civil Service appointment achieves finality. It decided that appointing authorities are required to comply with all ministerial steps required by any rule, regulation and statute pertaining to appointments as a condition to making an appointment final. Thus, the steps necessary to perfect a regular appointment, which include Civil Service Commission review and approval of a certification disposition proposed by an appointing authority, are required and necessary. The appellant could not have been given a regular appointment until her application had been approved and her name certified from an eligible list, and merely submitting an application does not entitle a candidate to a regular appointment. The appointing authority correctly gave her a provisional appointment to Technical Assistant 3.

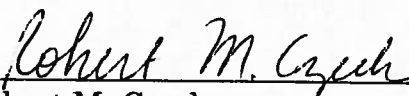
The appellant has failed to present a basis for reconsideration of this matter since she failed to establish that a clear material error occurred in the original determination or that new evidence presented would change the outcome of the appeal.

ORDER

Therefore, it is ordered that this request 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
CIVIL SERVICE COMMISSION
THE 3rd DAY OF DECEMBER, 2014



Robert M. Czech
Chairperson
Civil Service Commission

**Inquiries
and
Correspondence**

**Henry Maurer
Director
Division of Appeals and Regulatory Affairs
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Attachment

**c: Saramma Anil
Christopher Young
James Frey
Christina Mongon
Kenneth Connolly
Joseph Gambino**



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Saramma Anil,
Department of Human Services

CSC Docket No. 2014-3009

Layoff Appeal

ISSUED: SEP - 4 2014

(RE)

Saramma Anil, a Principal Clerk Typist with the Department of Human Services, Greystone Park Psychiatric Hospital, represented by Christopher Young, CWA Local 1040, appeals her lateral displacement to the same title at Greystone Park Psychiatric Hospital as she requests a regular appointment to the title Technical Assistant 3.

By way of background, the Department of Human Services submitted a layoff plan to the Division of Classification and Personnel Management (CPM) to lay off employees in various titles, including employees of the Division of Developmental Disabilities, due to the closure of the North Jersey Developmental Center, effective June 27, 2014. Numerous positions in various titles at several institutions were affected. As a result, a review of official records indicates that Ms. Anil was bumped from her Principal Clerk Typist regular appointment, and she laterally displaced another Principal Clerk Typist at Greystone Park Psychiatric Hospital. At the time of the layoff, the appellant was a provisional pending qualifying examination Technical Assistant 3.

On appeal, the appellant argues that she was a provisional pending qualifying examination Technical Assistant 3 since August 2011, and had submitted a completed application for permanency in her title. She was told that it was under process, and not to submit an application when a promotional examination was announced. She states that since her paperwork was not processed promptly, she was not appointed to the Technical Assistant 3 title. The promotional examination resulted in an incomplete eligible list but the appellant was told that that list had to

be exhausted. She states that she could have been appointed in the face of an incomplete list, and she requests to be returned to the Technical Assistant 3 title and made permanent.

CONCLUSION

In an appeal of this nature, it must be determined whether CPM properly applied the uniform regulatory criteria found in *N.J.A.C. 4A:8-2.1 et seq.*, in determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy.

At the heart of the title rights determination is the underlying policy to ensure that employees are afforded fair, uniform, and objective title rights without resulting in harm to the public. *See Malone v. Fender*, 80 N.J. 129 (1979). In this case, as in every case, individual situations are not relevant to title rights as defined in the administrative code. Matters related to position classification and examination issues are not germane to the issue of displacement rights, and are not generally reviewable in the context of a layoff title rights appeal. The Division of Selection Services received the appellant's Application for Qualifying Examination dated March 14, 2012. Originally, in September 2012, it was determined that the appellant's application could not be processed as there was a current pending promotional announcement (PS1794K) and a special reemployment list in existence. A list was issued on January 30, 2013 with two names. Subsequently, the request was resubmitted, and on April 29, 2013, the Division of Selection Services processed a qualifying examination for the appellant for the Technical Assistant 3 title, but a special reemployment list existed. Pursuant to *N.J.A.C. 4A:4-4.2 et. seq.*, special reemployment lists take precedence over promotional and open competitive lists. Since there was a special reemployment list in existence at the time, the appellant's qualifying examination could not be completed.

Lastly, permanency in a title is a result of certification from an eligible list and completion of a working test period. No individual can be retroactively made permanent in a position, as an individual's successful completion of a working test period cannot be established if it is not undergone. With respect to the appellant's claim that she was told not to file for the PS1794K promotional examination, had the appellant filed an appeal of that issue when she first became aware of it, the Commission would have likely granted her the opportunity to file a late application and take a make-up examination. It is noted that the appellant was not copied on the memorandum to the Department of Human Services in April 2013 regarding the qualifying examination. But she did not raise the issue until May 2014, more than a year after the Department of Human Services was told that the list had to be exhausted before Ms. Anil could be appointed permanently with a qualifying examination. All candidates are responsible for filing for and taking examinations

for promotions for which they are interested. If the appellant was interested in taking the PS1794K promotional examination, she should have filed for it regardless of any advice she had received. If she had, she would have been found eligible or, in the event that she had been successful in the qualifying examination, it would have not constituted a promotion at that time and the issue would be moot. However, as long as the qualifying examination had not been processed, the appellant could have filed for the promotional test. Moreover, the appellant has not provided any proof that she was advised not to file for PS1794K. Even if she had taken the promotional examination for PS1794K, there is no guarantee that she would have been appointed and passed her working test period prior to the layoff. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

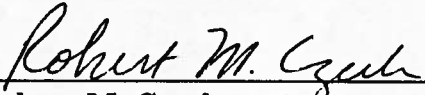
Thus, a review of the record fails to establish an error in the layoff process and the appellant has not met her burden of proof in this matter.

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
CIVIL SERVICE COMMISSION ON
THE 3rd DAY OF SEPTEMBER, 2014


Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
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