



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

In the Matter of Maribel Galarza,
et al., North Jersey Developmental
Center

CSC Docket Nos. 2014-2763
2014-2762
2014-2764

Layoff Appeals

AUG 04 2014

ISSUED: (RE)

Maribel Galarza, Janet Lindez, and Milagro Mendez, North Jersey Developmental Center, represented by Robert Yaeger, CWA Local 1040, request relaxation of the uniform regulatory criteria in *N.J.A.C. 4A:8-2.1 et seq.* in order to provide them with layoff rights to the Clerk, Clerk Typist and Clerk Transcriber title series.

By way of background, the Department of Human Services submitted a layoff plan to the Commission to lay off employees in various titles at the North Jersey Developmental Center, effective June 27, 2014, for reasons of economy and efficiency and over 2000 positions were impacted across facilities in the Department of Human Services. The positions of the three appellants were targeted in the layoff. As a result, Ms. Galarza was displaced from her permanent title of Word Processing Specialist 3 to the title Clerk Transcriber. Ms. Lindez, a Technical Assistant Management Information Systems, laterally displaced another individual in the same title at another location. Ms. Mendez was displaced from her Word Processing Specialist 1 title into the Word Processing Specialist 2 title.

On appeal, as to layoff rights, each appellant states that they should have rights to the Clerk, Clerk Transcriber and/or Clerk Typist title series. Ms. Galarza stated that she was given rights to the Clerk Transcriber series, but should also be given rights to the other title series, as she could do the duties of those titles. Ms. Lindez wants title rights to the Clerk and Clerk Typist title series since her prior-held titles were Senior Clerk Typist and Clerk Typist. Ms. Mendez wants title rights to the Clerk Transcriber and Clerk title series as she supervised individuals

in these titles while in her Word Processing Specialist 1 title. She states that she could perform the duties of those titles, and has 15 years of State service. They provide copies of the first and last pages of various job specifications, a list of administrative and clerical titles, the layoff rules, and their employment records.

CONCLUSION

There are three types of displacement rights, two of which are title rights, lateral and demotional; the third right is a demotional right to a previously held title (or prior held right). Lateral and demotional title rights are determined in accordance with *N.J.A.C. 4A:8-2.1 et seq.* A lateral right is the right of a permanent employee to exercise displacement rights against an employee in the layoff unit holding a title determined to be the same or comparable to the affected title of the employee. As to prior held rights, a displaced individual only has rights to a prior-held title in a lower class code if they have more seniority than the incumbent in that position.

In an appeal of this nature, it must be determined whether the Division of Classification and Personnel Management (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. A thorough review of the record establishes that the appellants' layoff rights were properly determined.

In this case, the appellants would like bumping rights to other title series. Pursuant to *N.J.A.C. 4A:8-2.1(a)*, for lateral rights purposes, in pertinent part, the selected title must have substantially similar duties and responsibilities; the education and experience requirements for the titles must be the same or similar, and the mandatory requirements shall not exceed those of the affected title; and any employee in the affected title with minimal training and orientation could perform the duties of the designated title by virtue of having qualified for the affected title.

The record establishes that the Division of Classification and Personnel Management (CPM) correctly utilized a uniform and objective automated system to determine layoff rights and did not disregard criteria found in *N.J.A.C. 4:8-2.1*. It is noted that the use of occupational group categorizations, as recognized by the United States Department of Labor, was a reasonable and objective method for identification of job similarities as required in *N.J.A.C. 4A:8-2.1* title rights criteria and the same criteria were uniformly applied to all titles in the State Classification Plan. Further, the use of the Dictionary of Occupational Titles (DOT) by CPM as a starting point for the development of 39 broad occupational groupings to enable the appropriate categorization of State job titles was appropriate, and these were

customized to account for the uniqueness found in occupations in the Merit System. Moreover, Civil Service Commission job specifications were used as the basis for the categorization into occupational groups. *See In The Matter of State Layoff Title Rights*, (Commissioner of Personnel, decided May 24, 1996), affirmed, A-5847-95T3 (App. Div. Dec. 9, 1997).

The record further establishes that for purposes of layoff rights and determinations, CPM operationalized *N.J.A.C.* 4:8-2.1 layoff title rights criteria. The layoff rights determination process was automated so as to ensure objectivity and uniformity in the process of determining rights, which were determined based on a comparative analysis of job specifications and application of *N.J.A.C.* 4A:8-2.2(a) and (b) title rights criteria. The determination of lateral and demotional rights was based on a comparative analysis of this agency's job specifications and application of *N.J.A.C.* title rights criteria as follows:

1. The affected and designated title(s) shall have substantially similar duties and responsibilities and, in State service, the same class code or lower;
2. The education and experience requirements for the title(s) are the same or similar and the mandatory requirements shall not exceed those of the affected title;
3. There shall be no special skills, licenses, certifications or registration requirements which are not also mandatory for the affected title(s);
4. Any employee in the affected title with minimal training and orientation could perform the duties of the designated title by virtue of having qualified for the affected title.

For example, in order to categorize functions or duties which are substantially similar, based on the Definition and Examples of Work portions of job specifications, all titles were slotted into one of the 39 occupational groups as recognized by the U.S. Department of Labor in the Dictionary of Occupational Titles which categorizes all known jobs. Titles were further categorized into occupational families within the occupational groups based on the differences in main functions of titles in each group after further review of job specification language. Thus, occupational groups and families are utilized as a means of categorizing titles based on assigned duties and responsibilities.

In the present matter, Ms. Lindez wants title rights to the Clerk and Clerk Typist title series since her prior-held titles were Senior Clerk Typist and Clerk Typist. She received rights to Senior Clerk Typist as this was a prior held title, and she did not elect rights for the Clerk Typist title. Her permanent title is Technical Assistant Management Information Systems, which is in the occupational group

Administrative Specializations (18). The Clerk and Clerk Typist title series are in the Clerical occupational group (20). As such, the titles are not functionally similar.

The Technical Assistant Management Information Systems title requires completion of sixty semester hour credits from an accredited college or university, and one year of experience in work involving information systems including responsibility for gathering, compilation, retrieval, maintenance, and distribution of financial, management, and/or other technical information in a public or private organization, or in providing user support and solving user problems in a help desk or related environment. In comparison, for example, a Principal Clerk Typist requires two years of keyboarding experience which shall have included clerical work containing a relatively large proportion of difficult tasks. A Principal Clerk requires two years of experience in clerical work. A Principal Clerk Transcriber requires two years of experience in the transcription of dictation using recording equipment.

The Technical Assistant Management Information Systems has an educational requirement of sixty college credits and different experience than that of the requested title series. The Technical Assistant Management Information Systems title is a paraprofessional title, while the others are clerical, and they are clearly dissimilar. The fact that the experience requirements for the clerical titles are less restrictive does not establish that the titles have substantially similar duties and responsibilities. Ms. Lindez was offered demotional rights to Senior Clerk Typist as this was a prior held title, and she elected to exercise rights to a position in the same title, a lateral move. Ms. Lindez does not otherwise have demotional rights to the Clerk and Clerk Typist title series as titles in those series are not functionally similar.

Ms. Galarza and Ms. Mendez are permanent in titles in the same series, Word Processing Specialist. The requirements for Word Processing Specialist 1 are, for example, three years of comprehensive experience in the operation, technology, and application of varied word processing equipment. They were given demotional rights to the titles Clerk Transcriber and Clerk Typist. Also, Ms. Galarza was offered prior held rights to Senior Clerk Transcriber.

First, it is noted that title rights are established based on analysis and a comparison of the titles and not an evaluation and an appraisal of employee qualifications. Whether the appellant is performing the duties of a title, or *can* perform the duties of the title, are classification, examination, certification and appointment issues and are not germane to the issue of displacement rights. The Word Processing Specialist 3 title is in class code 10, while the Word Processing Specialist 1 title is in class code 16. As already stated, Ms. Galarza and Ms. Mendez were given demotional rights to the titles Clerk Transcriber (class code 8) and Clerk Typist (class code 7), titles which do not have any requirements. Aside from the

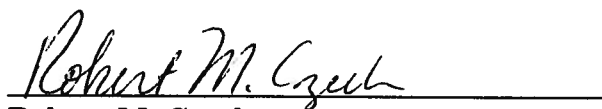
issue of prior held title rights, the appellants cannot be offered demotional title rights higher in these series as those titles have different requirements. For example, the Senior Clerk Typist title requires one year of experience in clerical work including typing. The Senior Clerk Transcriber requires one year of experience in the transcription of dictation using recording equipment. Similarly, the Clerk title series requires clerical experience. Each has dissimilar requirements compared to the Word Processing Specialist title series, which is isolated to the operation, technology, and application of varied word processing equipment. Clerical experience has a broader scope of duties, and transcribing dictation is clearly dissimilar. As such, there is no basis to relax the criteria in *N.J.A.C. 4A:8-2.1 et seq.* in order to provide the appellants with demotional layoff rights to the Clerk, Clerk Typist and Clerk Transcriber title series, as no good cause has been shown.

ORDER

Therefore, it is ordered that these requests 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 30th DAY OF JULY, 2014



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