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STATE OF NEW JERSEY

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

In the Matter of Yelenge Kubadidi,
Department of Human Services

CSC Docket No. 2015-1373

Layoff Appeal

ISSUED: FEB -9 2015 (RE)

Yelenge Kubadidi, a Senior Food Service Handler with the Department of Human Services, Greystone Park Psychiatric Hospital, appeals her layoff.

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 due to the closure of the Woodbridge Developmental Center, effective January 9, 2015. Numerous positions in various titles at several institutions were affected. A review of official records indicates that Ms. Kubadidi was laid off.

On appeal, the appellant stated that during the interview she was not informed that she would lose her seniority as a laid off employee, and she requested a position in another location.

Commission staff responded by letter that it is intrinsic in a layoff that separation from service bars the accrual of seniority. She was also informed that the final interview was not the time to deliberate preferences, but was the time to make a decision based on preferences and the available opportunities under the circumstances. Employees were told that they could change their mind at the interview stage, but that once the employee made their final decision, he or she could not change it unless they decided to retire. She was advised that to request a position at another location at this time is, in effect, a changing of mind, which is not an option or evidence of a violation of title rights.

In response, the appellant stated that she had been out of work because of surgery. When she got the call for the interview, she was on the way to the doctor's office as he would determine whether not she could go back to work. She states that she requested a delay in making her decision until she saw her physician, but the layoff team required her to make a decision. Afterwards, she says her physician said she could go back to work, and if she had known that, she would not have accepted a layoff. She also states that the layoff is a hardship for her and her family.

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. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

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, proper procedures were followed. The appellant was advised of the layoff and final interview processes and provided with resources to answer questions before the layoff was administered. Her Declaration Form had lateral choices listed before demotional choices, and she made this listing far in advance of the interview. Whether or not the appellant was out on disability did not disenfranchise the appellant of her title rights as, for layoff purposes, being out on a disability has no effect. If the appellant had selected a position during the interview, it would be available to her when her doctor cleared her to go back to work. The appellant states that this influenced her decision during the interview, but this is not evidence of a violation of her title rights. Rather, it is a reason for her choice in selecting to be laid off rather than accepting a position from her Declaration Form. To request not to be laid off at this time is, in effect, a change of mind, which is not an option or evidence of a violation of title rights. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

Further, the Commission recognizes that a layoff results in a hardship to the affected employee or his or her family. However, hundreds of other employees who are also laid off, demoted or displaced also experienced hardships, and the rules do not allow for considering the hardship of one employee versus the other employees in the determination of layoff options.

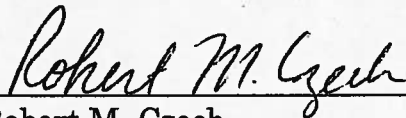
Thus, a review of the record fails to establish an error in the layoff process and the appellant has not met her burden of proof in this matter.

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 4th DAY OF FEBRUARY, 2015



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