

STATE OF NEW JERSEY

In the Matter of Stephanie Tomlin, Technical Assistant 3, Department of Law and Public Safety

CSC Docket No. 2015-2893

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Administrative Appeal

ISSUED: JUL 1 7 2015

(DASV)

The Department of Law and Public Safety requests that Stephanie Tomlin's out-of-title work experience in the title of Data Entry Operator 1 be accepted to qualify her for a prospective promotional examination for Technical Assistant 3.

By way of background, the appointing authority requested a pre-appointment evaluation of Tomlin's credentials for promotion to the unrelated competitive title of Technical Assistant 3. On April 16, 2015, the Division of Agency Services (Agency Services) determined that Tomlin did not meet the requirements for the title since she gained the required experience through out-of-title work. Agency Services found that Tomlin gained five years and nine months of relevant experience in the title of Data Entry Operator 1 and Data Entry Machine Operator, but such out-oftitle experience could not be accepted without the approval of the Civil Service Commission (Commission). It is noted that Tomlin received a permanent appointment as a Data Entry Machine Operator on August 1, 2009 and then served as a Data Entry Operator 1 from May 18, 2013 until her provisional appointment to Technical Assistant 3 effective September 7, 2013. The provisional appointment was a result of a position classification determination, rendered on October 8, 2014, by the Division of Classification and Personnel Management which found Tomlin's Data Entry Operator 1 position was performing the duties of a Technical Assistant 3.

¹ The competitive title of Data Entry Machine Operator was reallocated to the noncompetitive division effective May 18, 2013. The title series was also consolidated, made common for State and local government use, and renamed Data Entry Operator. See In the Matter of Data Entry Machine Operator Title Series (CSC, decided May 15, 2013).

In the instant matter, the appointing authority requests that, pursuant to N.J.A.C. 4A:4-2.6(c), Tomlin's out-of-title work experience be accepted for a promotional examination for Technical Assistant 3. It indicates that Tomlin was assigned the out-of-title duties due to business necessity and staff shortages. In that regard, the appointing authority explains that Tomlin is assigned to the Division of State Police's Criminal Justice Records Bureau and performs more than the routine data entry of standard information. Tomlin is required to navigate various systems to verify, create, and disseminate technical information and reports. Thus, as the business systems evolved, the appointing authority states that it was necessary for Tomlin to perform out-of-title duties to enable her to Moreover, the appointing authority successfully perform her current duties. emphasizes that Tomlin was appointed to the subject title provisionally pending promotional examination procedures as a result of the classification determination. It notes that Agency Services approved Tomlin's provisional appointment from the noncompetitive to the competitive division as a promotional advancement since her permanent title had been in the competitive division. Additionally, the appointing authority indicates that there is no promotional eligible list for the subject title in Tomlin's unit scope. There is also no applicable special reemployment list.

An examination announcement for Technical Assistant 3 (PS0899P), Department of Law and Public Safety, was issued on June 1, 2015 with a closing date of June 22, 2015. It was open to employees in the competitive division who possessed an aggregate of one year of continuous permanent service as of the closing date in any competitive title and two years of experience in reviewing, verifying, authorizing and/or providing information and assistance of a technical or fiscal nature in a public or private organization. Applicants who did not possess the required experience could substitute semester hour credits from an accredited college or university on a year-for-year basis with 30 semester hour credits being equal to one year of experience. As noted above, it was determined that Tomlin did not meet the requirements for the title in her pre-appointment evaluation. However, Tomlin filed for the examination, but eligibility determinations have not yet been issued.

CONCLUSION

Initially, when an employee who was previously appointed to a competitive career service title, but, as a result of a title consolidation, is cross-walked into a noncompetitive title, Agency Services may process any future promotional movements based on the employee's competitive title before the title consolidation without regard to whether or not the employee's present noncompetitive title is approved to promote to a competitive title. See In the Matter of Felicia Taylor (CSC, decided February 8, 2012) and In the Matter of Regina Gann, et al (CSC, decided August 15, 2013)(Commission concluded that individuals who attained permanent status in a competitive division title prior to its reallocation to the noncompetitive

division should be deemed to be permanent in a competitive title for promotional examination eligibility purposes). See also, In the Matter of Janice Fishbein (CSC, decided March 25, 2012) (Appellant's title was reallocated to noncompetitive division was not a basis to remove her name from a promotional eligible list for a higher competitive title). However, although Tomlin is considered as having permanent status in a competitive title for promotional examination eligibility purposes, she is still required to demonstrate that she meets the experience requirements for the subject title. In that regard, N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. N.J.A.C. 4A:4-2.6(c) provides that applicants for promotional examinations with open competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process, unless good cause is shown for an exception.

In the present matter, the appointing authority verifies that Tomlin performed out-of-title duties due to business necessity and staff shortages. Moreover, Agency Services confirmed that Tomlin has performed relevant out-of-title duties for over five years. Tomlin's position was also reviewed and reclassified to Technical Assistant 3, effective September 7, 2013. Additionally, there is no promotional eligible list for the subject title in Tomlin's unit scope, and there is no applicable special reemployment list. Under these circumstances, good cause exists to accept Tomlin's out-of-title work for the promotional examination for Technical Assistant 3 (PS0899P). Additionally, given that Tomlin has over one year of permanent status in the competitive title of Data Entry Machine Operator prior to its reallocation and name change to the noncompetitive title of Data Entry Operator 1, Tomlin should not be precluded from the subject examination based on her current permanent noncompetitive status.

ORDER

Therefore, it is ordered that this request be granted and Stephanie Tomlin's out-of-title work experience be accepted for the promotional examination for Technical Assistant 3 (PS0899P), Department of Law and Public Safety. In addition, the Division of Agency Services shall accept applicable and documented out-of-title work experience from all other applicants for that promotional examination.

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 15TH DAY OF JULY, 2015

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Chairperson

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