



STATE OF NEW JERSEY

In the Matters of Tyefa Stallings,
County Correctional Deputy Police
Warden (PC4858D), Camden County

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

CSC Docket No. 2024-1076

Bypass Appeal

ISSUED: December 18, 2024 **(JET)**

Tyefa Stallings appeals the bypass of her name on the County Correctional Deputy Police Warden (PC4858D), Camden County, eligible list.

By way of background, the appellant took the promotional examination for County Correctional Deputy Police Warden (PC4858D), achieved a passing score, and was ranked on the subsequent eligible list, which promulgated on July 6, 2023 and expires on July 5, 2026. Two names, including the appellant's name, were certified on the July 10, 2023 (PL231283) certification. In disposing of the certification, the appointing authority bypassed the appellant, the first ranked eligible, and recorded her as, "retained, interested others appointed," and appointed Rebecca Franceschini, the second ranked eligible.

On appeal to the Civil Service Commission (Commission), the appellant contends that the prior Deputy Warden¹ retired in 2019,² yet the appointing authority did not fill the vacancy until 2022, when it appointed Franceschini in order to provide her with the additional experience and training to qualify her for the subject position. The appellant argues that, if she had been provided with the same opportunity to serve as a provisional Deputy Police Warden, such experience would have changed the outcome of the appointment process in this matter. Additionally, the appellant

¹ The Deputy Warden title was renamed County Correctional Deputy Police Warden in December 2019.

² Agency records reflect that the prior County Correctional Deputy Police Warden, Christopher J. Foschini, served in that title from October 24, 2016 to February 1, 2020.

states that she possesses more seniority and experience than Franceschini, as she was hired by the appointing authority on January 24, 2000, and Franceschini was hired on March 12, 2001. The appellant adds that her experience includes: possession of a Bachelor's degree; four years of experience as a non-administrative Captain where she was responsible for staffing in the main jail and the Maintenance department, and seven years of experience in the Army Reserves where she served as a Sergeant.³ Additionally, the appellant states that the appointing authority did not provide the criteria it used to determine who was the most qualified candidate. Rather, the appellant contends that it appears that the appointing authority used "on the job training" to justify Franceschini's appointment, and that the appointing authority "entitled her" to the position. Moreover, the appellant asserts the appointing authority did not properly rely on the Rule of Three, as it did not establish that Franceschini was the best qualified candidate for appointment to the subject title.

In response, the appointing authority, represented by Antonieta Paiva Rinaldi, Esq., explains that, since Franceschini's name appeared on, and was subsequently bypassed, on the 2016 certification (PL161244) for Deputy Warden,⁴ and since that certification was the most recent certification for the title, it decided to provisionally appoint Franceschini as Deputy Police Warden, effective March 17, 2022. The appointing authority states that, although the appellant claims that there was no need to appoint Franceschini to the subject title, she has not established her claims in this matter, as the appellant's name did not appear on the above noted 2016 certification. As such, the appointing authority maintains that it legitimately appointed Franceschini as provisional Deputy Police Warden.

Additionally, the appointing authority maintains that it permanently appointed Franceschini in accordance with the Rule of Three, which allowed it to consider any of the top three interested candidates. In this regard, the appointing authority asserts that it had several legitimate reasons for appointing Franceschini, including her four and one-half years of experience as a non-Administrative Captain; three years of experience as an Administrative Captain; and one year of experience as a provisional Deputy Police Warden. The appointing authority explains that, when compared to the appellant's four years of experience as a non-Administrative Captain and in the Army Reserves,⁵ Franceschini possessed more than twice the amount of experience that the appellant possessed at the time of the appointment. With respect to the appellant's arguments that she has more seniority than Franceschini, the

³ The appellant asserts that she provided her military experience to the appointing authority so that it could consider such experience as a part of her qualifications for the subject title, and that she is not claiming veteran's preference in this matter.

⁴ Agency Records reflect that three names, including Franceschini's, appeared on the October 21, 2016 (PL161244) certification for Deputy Warden (PC1996T). The appellant's name did not appear on that certification.

⁵ The appointing authority notes that, although it considered the appellant's service in the Army Reserves, she does not possess Civil Service veteran's preference.

appointing authority maintains that such contentions do not establish that she should have been appointed. Moreover, the appointing authority states that it does not claim that Franceschini was “entitled” to the position, but rather, it had several legitimate reasons for appointing Franceschini as noted above. As such, the appellant has not met her burden of proof in this matter, since she has not shown that there were any improper motives with respect to Franceschini’s appointment.

CONCLUSION

N.J.S.A. 11A:4-8, *N.J.S.A.* 11A:5-7, and *N.J.A.C.* 4A:4-4.8(a)3ii (known as the Rule of Three) allow an appointing authority to select any of the top three interested eligibles from a promotional list, provided that a veteran does not head the list. Moreover, the Rule of Three allows an appointing authority to use discretion in making appointments. See *N.J.S.A.* 11A:4-8 and *N.J.A.C.* 4A:4-4.8(a)3ii. As long as that discretion is properly utilized, an appointing authority’s discretion will not be overturned. Compare, *In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984) (Hearing granted for individual who alleged that bypass was due to anti-union animus); *Kiss v. Department of Community Affairs*, 171 *N.J. Super.* 193 (App. Div. 1979) (Individual who alleged that bypass was due to sex discrimination afforded a hearing). *N.J.A.C.* 4A:2-1.4(c) provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority’s decision to bypass the appellant on an eligible list was improper.

Initially, with respect to the appellant’s arguments that the appointing authority improperly provisionally appointed Franceschini to the subject title, the Commission does not have jurisdiction to review the appointment of provisional employees. Qualified provisional employees may be appointed based on the operational makeup and hiring needs of an appointing authority, where no complete list of eligibles exist for that title. In the instant matter, Franceschini was provisionally appointed prior to the subject eligible list’s promulgation, when there was no complete list of eligibles. Moreover, the appellant has not argued that Franceschini was not qualified at the time of her provisional appointment, and given that Franceschini was on the prior list for the title, she necessarily met the qualifications.

In this matter, the appointing authority indicated that the lower ranked candidate was appointed as she was the most qualified for the position. An appointing authority has the discretion to dispose of a certification within the guidelines of Title 11A of the New Jersey Statutes Annotated and Title 4A of the New Jersey Administrative Code. This discretion includes utilizing each candidate’s history and qualifications to determine the best candidate from a list of three eligibles, any of whom may be selected under *N.J.A.C.* 4A:4-4.8(a)3. The Commission has reviewed this matter and does not find any evidence that the appellant was improperly bypassed. The appointing authority provided specifics with respect to

Franceschini's qualifications, which the appellant has not persuasively refuted in this matter. Based on the description of duties provided by the appointing authority as indicated above, the appellant's military service and seniority do not substantively establish that she was more qualified than Franceschini. Moreover, the mere fact that the appellant's name appeared on the certification does not entitle her to an appointment, as she does not possess a vested property interest in the position. The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 N.J. Super. 494 (App. Div. 1990). Accordingly, 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 18TH DAY OF DECEMBER, 2024



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