



STATE OF NEW JERSEY

In the Matter of Gihane Said,
Department of Treasury

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

CSC Docket No. 2023-2580

Administrative Appeal

ISSUED: April 10, 2024 (SLD)

Gihane Said, an Auditor 2, Taxation, with the Department of the Treasury appeals the determination of her salary upon her promotion to her current title, pursuant to *N.J.A.C. 4A:3-4.9*.

By way of background, the appellant was appointed to the title of Auditor 1, Taxation,¹ effective June 15, 2002. The appellant was then provisionally appointed, pending promotional examination procedures to the title of Auditor 2, Taxation, effective May 29, 2004. The appellant was returned to her permanent title of Auditor 1, Taxation, effective December 9, 2006, as she was displaced due to the promulgation of an eligible list for Auditor 2, Taxation (PS4570U).

Thereafter, a classification appeal was submitted on behalf of the appellant; and as a result, she was provisionally appointed, pending promotional examination procedures to the title of Auditor 2, Taxation, effective September 3, 2016. Upon her provisional appointment, the appellant’s salary increased from \$72,953.46 (salary range P21, step 10)² to \$78,298.73 (salary range P24, step 8). See *N.J.A.C. 4A:3-4.9*. In this regard, *N.J.A.C. 4A:3-4.9* provides in pertinent part that:

¹ It is noted that the title series had been renumbered, and at the time of the appellant’s appointment, the appellant’s title was Auditor 3, Taxation. All references to the titles in this decision will be based on the current numbering of the series.

² The record indicates that the appellant had been on step 10 of salary range P21 for more than 39 pay periods.

(b) Employees who are appointed to a title with a higher class code shall receive a salary increase equal to at least one increment in the salary range of the former title plus the amount necessary to place them on the next higher step in the new range . . . This subsection shall apply when the following conditions are met:

1. Employees are appointed from their permanent title to a title with a higher class code following or subject to a promotional examination;

* * *

(c) When an employee is advanced to a title with a salary schedule which is different (dollar value of ranges and steps do not coincide) from the employee's previous salary schedule, the steps described in (b) above are first performed in the previous schedule, and then the employee's salary is set at the lowest step in the new schedule and range that equals or exceeds that salary.

(d) When an employee has been at the maximum of his or her previous salary range for at least 39 pay periods, and the salary increases after workweek adjustment would be less than two increments in the employee's previous range, the employee shall receive an additional increment in the new range, providing the employee is not already at the maximum of the new range.

* * *

The appellant then applied for the promotional examination for Auditor 2, Taxation (PS4470U). The PS4470U eligible list, containing 79 names, promulgated on October 12, 2017, and expired on October 11, 2020. It is noted that the appellant's name did not appear on the eligible list, as she did not pass the written examination. As a result, the appellant was returned to her permanent title of Auditor 1, Taxation, effective March 31, 2018, and was placed on step 10 of salary range P21 (\$74,412.55), pursuant to *N.J.A.C. 4A:3-4.10*.

A second classification appeal was submitted on behalf of the appellant; and as a result, she was provisionally appointed, pending promotional examination procedures to the title of Auditor 2, Taxation, effective June 22, 2019. Upon her provisional appointment, the appellant's salary increased from \$75,900.80 (salary range P21, step 10) to \$78,598.34 (salary range P24, step 7).³ See *N.J.A.C. 4A:3-4.9*.

An examination for the title of Auditor 2, Taxation (PS0435U) was announced open with a closing date of August 21, 2019. A list containing the names of 56

³ The record indicates that as the appellant had not been on step 10 of salary range P21 for more than 39 pay periods, then pursuant to *N.J.A.C. 4A:3-4.9(c)*, she did not receive an additional increment in the new range.

eligibles, including the appellant as the 24th ranked eligible, promulgated on August 12, 2021, and expires on August 11, 2024. A certification (PS210976) was issued on September 7, 2021, for the appellant's location, containing the names of 45 eligibles, including the appellant as the 22nd listed eligible. The appointing authority returned the certification on December 3, 2021, appointing nine eligibles. It is noted that the appellant's name was retained as interested, not reachable for appointment. As a result of the appellant not being reachable for appointment on the September 7, 2021 certification (PS210976), she was returned to her permanent title of Auditor 1, Taxation, effective November 20, 2021,⁴ and was placed on step 10 of salary range P21 (\$78,967.17). *See N.J.A.C. 4A:3-4.10.*

Another certification (PS230105) was issued on January 27, 2023, for the appellant's location, containing the names of 13 eligibles, including the appellant as the ninth listed eligible. The appointing authority returned this certification on April 5, 2023, appointing, among others, the appellant, effective March 25, 2023. Upon her regular appointment, the appellant's salary increased from \$82,157.57 (salary range P21, step 10) to \$85,077.41 (salary range P24, step 7).⁵ *See N.J.A.C. 4A:3-4.9.*

On appeal, the appellant asserts that it is unfair that she was only placed on step 7 of salary range P24 upon her regular appointment to the title of Auditor 2, Taxation, even though she had previously been serving on step 8, when she was serving provisionally in the title of Auditor 2, Taxation. In this regard, she argues that although *N.J.A.C. 4A:3-4.9(c)* provides that an individual must have been serving 39 pay periods in the lower title to receive an extra increment upon her appointment to the higher title, she had served in the lower title for 35 pay periods. The appellant maintains that she has been "stuck" in the Auditor 1, Taxation title for almost "22 years" and it is unfair that she is being "punished" for temporarily receiving an Auditor 2, Taxation provisional title. The appellant maintains that if she had been returned to her permanent title on August 12, 2021, when the Auditor 2, Taxation (PS0435U) eligible list promulgated, she would have served in the lower title for 39 pay periods, meeting the requirement.

It is noted that although given the opportunity, the appointing authority did not submit any information or arguments in this matter.

CONCLUSION

In the instant matter, the appellant maintains that it was unfair that she was placed on step 7 of salary range P24 upon her regular appointment to the title of Auditor 2, Taxation, effective March 25, 2023, even though she had previously been serving on step 8 of salary range P24 when she was serving provisionally in the title. In this regard, she argues that although *N.J.A.C. 4A:3-4.9(c)* provides that an individual must have been serving 39 pay

⁴ The November 20, 2021 date was also the effective date of the appointments from the September 7, 2021 certification (PS210976).

⁵ The record indicates that as the appellant had not been on step 10 of salary range P21 for more than 39 pay periods, then pursuant to *N.J.A.C. 4A:3-4.9(c)*, she did not receive an additional increment in the new range.

periods in the lower title to receive an extra increment upon her appointment to the higher title, she had served in the lower title for 35 pay periods and had she been returned to her permanent title of Auditor 1, Taxation when the PS0435U eligible list promulgated, she would have met the requirement. The appellant contends that, by applying *N.J.A.C. 4A:3-4.9(c)*, she is being punished for temporarily accepting an Auditor 2, Taxation title. She argues that it is unfair that *N.J.A.C. 4A:3-4.9(c)* is being applied to her situation as she has been stuck in the Auditor 1, Taxation title for almost 22 years.

As noted above, the appellant was provisionally appointed to the title of Auditor 2, Taxation, effective September 3, 2016, and pursuant to *N.J.A.C. 4A:3-4.9*, she was placed on step 8 of salary range P24. Upon her return to her permanent title of Auditor 1, Taxation, effective March 31, 2018, she was returned to step 10 of salary range P21. Thereafter, she received a provisional appointment to the title of Auditor 2, Taxation, effective June 22, 2019. However, since it had *not* been an additional 39 pay periods since her return to her permanent title of Auditor 1, Taxation, *N.J.A.C. 4A:3-4.9(c)* was not applied in determining her salary, and she was placed on step 7 of salary range P24. The appellant was again returned to her permanent title of Auditor 1, Taxation, effective November 20, 2021, and was placed on step 10 of salary range P21. Finally, the appellant received a regular appointment to the title of Auditor 2, Taxation, effective March 25, 2023. However, since it had *not* been an additional 39 pay periods since her return to her permanent title of Auditor 1, Taxation, *N.J.A.C. 4A:3-4.9(c)* was again not applied in determining her salary, and she was placed on step 7 of salary range P24.

In this matter, every time the appellant was returned to her permanent title of Auditor 1, Taxation, it was because she was not reachable for appointment, either because her name did not appear on the relevant eligible lists for the title of Auditor 2, Taxation, or because she was not ranked high enough to be reachable. Moreover, as noted above, the appellant was aware that *N.J.A.C. 4A:3-4.9(c)* was to be applied to her movements to the higher title. In this regard, *N.J.A.C. 4A:3-4.9(c)* was previously not applied upon her provisional appointment to the title of Auditor 2, Taxation, effective June 22, 2019. Specifically, since it had *not* been an additional 39 pay periods since her return to her permanent title of Auditor 1, Taxation on March 31, 2018, she was placed on step 7 of salary range P24. In addition, the appellant claims that, had she been returned to her permanent title of Auditor 1, Taxation when the PS0435U eligible list promulgated on August 12, 2021, she would have met the requirement of serving 39 pay periods in the lower title. However, this may not have been feasible as she was performing the duties of the higher title per the position classification review and could have received a regular appointment to Auditor 2, Taxation had she been reachable for appointment at the time of the certification disposition. Further, there was no evidence that any claimed delay in returning her to her permanent title was improper. Consequently, the appellant has failed to establish good cause to relax the provisions of *N.J.A.C. 4A:3-4.9(c)*.

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 10TH DAY OF APRIL, 2024



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