



STATE OF NEW JERSEY

In the Matter of Elizabeth Perry,
Jersey City School District

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

CSC Docket No. 2025-556

Administrative Appeal

ISSUED: February 26, 2025 (SLK)

Elizabeth Perry, represented by Randi Doner April, Esq., a former provisional Record Support Technician 2 with the Jersey City School District, appeals her return to her permanent title, Clerk 1.

On appeal, Perry submits an August 19, 2024, letter from the appointing authority noting that she since her service as a Record Support Technician 2 was provisional and she did not appear for an interview, she was being returned to her permanent title, effective August 28, 2024. She highlights that she initially received the subject provisional appointment in response to a classification review request that she initiated where this agency determined that she was performing the duties of a Records Support Technician 2. Perry asserts that she performed the duties of a Record Support Technician 2 for two years out-of-title before she requested that the classification of her position be reviewed and then she provisionally served in that title for two more years before being determined eligible for the Record Support Technician 2 (PM3455E) promotional eligible list in November 2023. Therefore, she questions why the appointing authority did not just return certification PL232240 when it was due in February 2024, indicating that she was appointed, which would have been the appointing authority's standard practice,¹ and why it took so long to

¹ Agency records indicate that PL232240 was due to be returned in February 2024. The three eligibles on the list were all tied as the first ranked. Instead, the appointing authority returned the certification in September 2024 indicating that one was appointed, one eligible was retained, and Perry was removed for failure to report to the interview. While the record is unclear as to the reason for the

make the appointment. Perry also requests information as to how many Civil Service examinations she has had taken, passed, and not been appointed. Moreover, Perry asks for confirmation as to whether she needed to interview for the Records Support Technician 2 title again and whether this was mandatory practice under Civil Service law or rules or at the appointing authority's discretion. Perry asserts that the appointing authority's process for the subject appointment was "abuse," and she questions why the appointing authority is allowed to engage in this alleged abusive behavior. Perry also asks if she has a vested right in the appointment. She highlights that she currently has a lawsuit against the appointing authority for engaging in alleged discriminatory practices.

CONCLUSION

N.J.S.A. 11A:4-13(a) provides that regular appointments shall be to a title in the competitive division of the career service upon examination and certification or to a title in the noncompetitive division of the career service upon appointment. The appointments shall be permanent after satisfactory completion of a working test period. *N.J.A.C.* 4A:4-6.1(a)9, in conjunction with *N.J.A.C.* 4A:4-4-4.7(a)1, provides that an eligible may be removed from an eligible list for other sufficient cause. *N.J.A.C.* 4A:2-1.4(c) provides that the appellant has the burden of proof.

In this matter, the record indicates that after a position classification review, Perry's position was reclassified to Record Support Technician 2. However, this reclassification was appropriately designated as provisional, pending promotional examination procedures, as in order for an individual to achieve a permanent appointment in the competitive division of the career service, the individual must apply for and pass a Civil Service examination, be appointed from an eligible list, and satisfactorily complete a working test period. *See N.J.S.A.* 11A:4-13(a). Further, it was appropriate for the appointing authority to remove Perry's name from the subject eligible list as she does not dispute that she failed to attend the interview. *See N.J.A.C.* 4A:4-6.1(a)9.

Concerning Perry's statements that she had been performing the duties of Record Support Technician 2 prior to her position classification review for two years, she initiated the classification review which led to the subject provisional appointment, and she served provisionally in the subject title for two years after the classification review, these circumstances do not entitle Perry to a permanent appointment as a Records Support Technician 2 as a provisional appointee can be separated from such an appointment at any time and does not have a vested property interest in the provisional title. In other words, a provisional employee has no automatic right or expectation of achieving permanent appointment to the position to which he or she is occupying. *See O'Malley v. Department of Energy*, 109 *N.J.* 309

delay in returning the certification, any such delay does not afford or entitle any individual on the certification to a permanent appointment.

(1987). Similarly, regarding Perry's statements that she met the eligibility requirements for the Record Support Technician 2 (PM3455E) promotional examination as well as other examinations where she was not promoted, individuals whose names merely appear on a list do not have a vested right to appointment. *See In re Crowley*, 193 N.J. Super. 197 (App. Div. 1984), *Schroder v. Kiss*, 74 N.J. Super. 229 (App. Div. 1962). 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).

Referring to Perry's questioning as to why she needed to interview again,² it is within an appointing authority's discretion to choose its selection method and there is nothing in Civil Service law or rules prohibiting an appointing authority from interviewing candidates for a position that is currently occupied by a provisional appointee or requiring more than one interview. Moreover, Perry has not presented any substantive evidence to support an argument that the appointing authority's selection method violated or was otherwise "abusive" or "discriminatory" under Civil Service law or rules. The mere fact that the appointing authority delayed its returning of the subject certification or required the candidates, including Perry, to interview, does not invalidate its selection method. Moreover, even if it was the appointing authority's past practice³ to permanently appoint provisional appointees from a list without any other selection process, there is nothing under Civil Service law or rules that prohibited the appointing authority to interview for the subject promotion.

ORDER

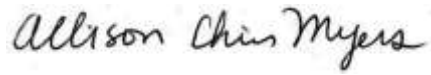
Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

² The record is unclear if Perry had a first interview as her provisional appointment stemmed from a classification review and not a vacancy announcement. Although, this distinction is not germane to the disposition of this matter.

³ Other than Perry's statements, there is nothing in the record concerning the appointing authority's past practices. Regardless, as the appointing authority has discretion in its selection method, past practice is not dispositive.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 26TH DAY OF FEBRUARY, 2025



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