



In the Matter of Karin Darlington,  
Auditor 2, Taxation, Department of  
the Treasury

CSC Docket No. 2016-4263

**STATE OF NEW JERSEY**  
**FINAL ADMINISTRATIVE ACTION**  
**OF THE**  
**CIVIL SERVICE COMMISSION**

**Administrative Appeal**

**ISSUED:** April 10, 2018 (BS)

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Karin Darlington requests a retroactive date of permanent appointment to the title of Auditor 2, Taxation.

By way of background, the appellant's name appeared on the eligible list for Auditor 2, Taxation (PS2369U), Department of the Treasury, which promulgated on April 4, 2013 and originally expired on April 3, 2016. A total of 24 certifications were issued from this list resulting in 68 appointments. The appellant completed a Classification Questionnaire (DPF-44S) on March 21, 2016 and submitted it to her supervisor that same day. The appellant's supervisor reviewed it and then submitted it to Michelle Bartolomei, Assistant Director Audit Activity on March 23, 2016, who signed off on it and submitted it to Treasury Human Resources on March 29, 2016. The DPF-44S was received by the Division of Agency Services (Agency Services) on April 13, 2016. On May 3, 2016, Agency Services issued a classification determination finding that the most appropriate classification for the appellant's position was Auditor 2, Taxation, and she was provisionally appointed, pending promotional examination procedures, effective April 30, 2016. In this regard, since the PS2369U list expired on April 3, 2016, the appellant could not be permanently appointed on the effective date of her position classification.

In her request to the Civil Service Commission (Commission), the appellant requests a retroactive date of permanent appointment to be made effective March 29,

2016, the date the appointing authority signed off on the DPF-44S. The appellant argues that the effective date of her provisional appointment should be “at least April 5, 2016, when the classification appeal was received” by the Commission and that she should be appointed from the PS2369U promotional eligible list because she was “reachable.” The appellant also relies on the Commission’s decision in *In the Matter of Tomasz Petrykiewicz, Auditor 2 Taxation (PS2369U)*, Department of the Treasury (CSC, decided December 7, 2016) which revived the list to effectuate the appointment of Petrykiewicz.

## CONCLUSION

*N.J.A.C.* 4A:3-3.9(c)3 and (c)7 provide the time frames in which the classification process must progress. *N.J.A.C.* 4A:3-3.9(e)3(i) states that if a classification appeal is granted, the effective date of implementation shall be the pay period immediately after 14 days from the date an appropriate Civil Service Commission representative first received the appeal or reclassification request, or such earlier date as directed by the Commission.

*N.J.A.C.* 4A:4-3.9 provides that an eligible list may be revived in order to implement a court order or decision of the Commission in the event of a successful appeal instituted during the life of a list, to correct an administrative error, or for other good cause. Additionally, *N.J.A.C.* 4A:4-1.10(c) states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay, or for other good cause.

In the present matter, the appointing authority complied with all the time requirements stipulated in *N.J.A.C.* 4A:3-3.9(c)3 and (c)7 and there were no delays in the process. As the DPF-44S was received by Agency Services on April 13, 2016, in accordance with *N.J.A.C.* 4A:3-3.9(e)3(i), the effective date of reclassification was properly set as April 30, 2016, which is the pay period immediately after 14 days from the date Agency Services first received her request for reclassification. This effective date fell after the original April 3, 2016 expiration date of the PS2369U eligible list. Although the appointing authority requested that the PS2369U eligible list be revived to effectuate the regular appointment of Tomasz Petrykiewicz and the Commission granted this request, the remedy provided was limited to the unique factors in that matter. *See Petrykiewicz, supra.* Those factors are not present in the instant matter. In the Petrykiewicz case, his position was reclassified as Auditor 2, Taxation, effective March 5, 2016, prior to the expiration of the April 3, 2016 expiration of the PS2369U list. Because the effective date of reclassification fell within the life of the eligible list and because Petrykiewicz would have been reachable for appointment at that time, the Commission found good cause to revive the eligible list and issue a certification against Petrykiewicz’s position. The March 5, 2016 effective date was set because Agency Services first received Petrykiewicz’s appeal of his classification the pay period prior to that date consistent with *N.J.A.C.* 4A:3-3.9(e)3(i).

In the instant matter, the appellant maintains that the relief granted in *Petrykiewicz* supports her request. The Commission disagrees and notes that the appellant's situation differs in that her DPF-44S was received by Agency Services on April 13, 2016, after the subject eligible list had expired. Thus, while the appellant argues that her DPF-44S was received by the appointing authority's Human Resources office on March 29, 2016, the effective date of position reclassification is based on when Agency Services first receives the appeal. In this regard, internal processing delays over which this agency has no control, does not provide a basis for a retroactive date of position reclassification. Regardless, the Commission notes that only 23 calendar days and 16 working days elapsed between the date the appellant submitted the DPF-44S to her supervisor, the Assistant Director signed off on it and submitted it to Treasury Human Resources and it was received by Agency Services. Further, Agency Services reviewed the request in accordance with the procedures outlined in *N.J.A.C.* 4A:3-3.5 and 4A:3-3.9 and issued a determination within a month of the DPF-44S's initial receipt. As such, the Commission finds that there were no delays or rule violations in the processing of the appellant's classification review and good cause has not been established to grant a permanent appointment or an earlier appointment date.

### ORDER

Therefore, it is ordered that this request 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 APRIL, 2018

*Deirdre L. Webster Cobb*

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Deirdre L. Webster Cobb  
Acting Chairperson  
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