B-11



## STATE OF NEW JERSEY

In the Matter of Admira Marah, Department of Human Services

CSC Docket No. 2014-2770

FINAL ADMINISTRATIVE
ACTION OF THE
CIVIL SERVICE COMMISSION

Layoff Appeal

ISSUED: FEB - 9 2015

(RE)

Admira Marah, an Assistant Director of Nursing Services 1, Developmental Disabilities with the Department of Human Services, North Jersey Developmental Center, represented by Robert Yaeger, CWA Local 1040, appeals her demotion in lieu of layoff to Supervisor of Nursing Services at Greystone Park Psychiatric Hospital.

By way of background, the Department of Human Services submitted a layoff plan to the Division of Classification and Personnel Management (CPM) to lay off employees in various titles due to the closure of the North Jersey Developmental Center, effective June 27, 2014. Numerous positions in various titles at several institutions were affected. As a result, a review of official records indicates that Ms. Marah's position was targeted, and she was demoted to Supervisor of Nursing Services at Greystone Park Psychiatric Hospital.

On appeal, the appellant argued that she there were two provisional appointees in Morris County in the title Assistant Director of Nursing who were not impacted, and that she should have been offered one of those positions.

Commission staff informed the appellant by letter that there were two provisional incumbents in the title Assistant Director of Nursing Services 1, Psychiatric (class code 26). One of those provisionals, Ruben Millan, was displaced by someone from a higher class code (29). The other, Miliodaire Alphonse, held a regular appointment in the same class code as the appellant, but he had more seniority than she did. The appellant has 14 years, 5 months and 18 days of

seniority, while Mr. Alphonse has 15 years, 2 months and 29 days. The appellant was advised that for the duration of the layoff, Human Resource personnel were focused on the administration of the layoff, after which other personnel actions could be completed. In this case, the Division of Selection Services informed the Department of Human Services on June 6, 2014 that the qualifying examination for Mr. Alphonse could not be processed as a complete list from a promotional examination and a special reemployment list were in existence. As such, Mr. Alphonse was slated to be removed from his provisional position, but this was delayed by the administration of the layoff. He has since been returned to his Quality Assurance Specialist Health Services title (class code 26), effective August 9, 2014. This information was provided to the appellant and her representative in a letter dated August 20, 1014.

In reply, the appellant and her representative both state that they did not receive the letter, and as such, the appellant submitted additional arguments. She reiterated the facts as described, but contends that she should have been given the provisional position of Mr. Alphonse on the basis that she was permanent in the title of Assistant Director of Nursing Services 1, Developmental Disabilities.

## **CONCLUSION**

In an appeal of this nature, it must be determined whether CPM properly applied the uniform regulatory criteria found in N.J.A.C. 4A:8-2.1 et seq., in determining layoff rights. It is an appellant's burden to provide evidence of misapplication of these regulatory criteria in determining layoff rights and the appellant must specify a remedy. A thorough review of the record establishes that the appellant's layoff rights were properly determined.

At the heart of the title rights determination is the underlying policy to ensure that employees are afforded fair, uniform, and objective title rights without resulting in harm to the public. See Malone v. Fender, 80 N.J. 129 (1979). In this case, the appellant was permanent in a title in class code 26, and Mr. Alphonse was permanent in the title Quality Assurance Specialist Health Services, also class code 26, and his seniority was greater than the appellant's seniority. The appellant's permanency in the title of Assistant Director of Nursing Services 1, Developmental Disabilities is not a relevant issue and her reliance on this is misplaced. It does not establish that she was permanent in a higher class code, or had more seniority, than Mr. Alphonse. The appellant did not have rights to Mr. Alphonse's provisional position which was in the same class code as both of their regular titles. No error or evidence of misapplication of the pertinent uniform regulatory criteria in determining layoff rights has been established.

Thus, a review of the record fails to establish an error in the layoff process and 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 4th DAY OF FEBRUARY, 2015

Robert M. Czech

Chairperson

Civil Service Commission

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