



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Records Support
Technician 2 (M0157S), East Orange

CSC Docket No. 2015-2305

Appointment Waiver

ISSUED: **OCT 25 2015** (LDH)

East Orange requests permission not to make an appointment from the June 24, 2014 certification for Records Support Technician 2 (M0157S).

The record reveals that the appointing authority provisionally appointed India Cole, pending open-competitive examination procedures to the title of Records Support Technician 2, effective July 13, 2013. As a result of the provisional appointment, an examination was announced with a closing date of February 27, 2014. The resulting eligible list of 16 names, including Cole's name, promulgated on June 19, 2014 and expires on June 18, 2017. The appointing authority took no action to obviate the need for the examination at the time of the announcement or prior to the administration of the examination. On June 24, 2014, the names of 13 eligibles, including Cole, who was tied as the sixth ranked eligible, were certified from the subject eligible list. The appointing authority returned the certification noting that the subject title was not the best fit for the needs of the office.

The appointing authority's request for an appointment waiver was acknowledged, and it was advised that if its request were granted, it could be assessed for the costs of the selection process in the amount of \$2,048. In response, the appointing authority states that there is an inadequacy with the duties and responsibilities performed by the subject position and those expected by the appointing authority. Specifically, the appointing authority contends that coordinating support services in accomplishing the agency records processing is

beyond an entry level clerical with one year experience as outlined in the subject position's job description. Therefore, it believes a more appropriate title for the duties performed by Cole is the title of Management Assistant. Finally, the appointing authority indicates that it will assume the administrative costs in processing the examination.

Agency records reveal that Cole was appointed to the non-competitive title of Records Support Technician 1, effective August 24, 2015. Personnel records further reveal that there are no employees in the subject title serving provisionally, pending an open competitive examination, with the appointing authority.

A review of the job specification for Records Support Technician 1 reveals that an individual in that title performs varied clerical work involving the processing and filing of records. The job specification for Records Support Technician 2 reveals that an individual in that title performs moderately complex and non-routine clerical work involving the processing and filing of records. A review of the job specification for Management Assistant reveals that an individual in that title provides a wide range of administrative services in support of a manager(s) within the area of assignment; assists in the coordination of management/administrative activities of an assigned unit or work area; does other related duties.

CONCLUSION

In accordance with N.J.S.A. 11A:4-5, once the examination process has been initiated due to the appointment of a provisional employee or due to an appointing authority's request for a list to fill a vacancy, the appointing authority must make an appointment from the resulting eligible list if there are three or more interested and eligible candidates. The only exception to this mandate may be made for a valid reason such as fiscal constraints.

In the instant matter, the subject examination was generated as a result of the provisional appointment of Cole. After a complete certification was issued, the appointing authority indicated that it would not be making any appointments as the subject position would not meet the needs of the office. Rather, the appointing authority claimed that the appropriate title for the duties performed by Cole was Management Assistant. As noted above, an individual serving in the title of Management Assistant would be responsible for assisting in the coordination of management/administrative activities. However, instead of provisionally appointing Cole to the title of Management Assistant, East Orange appointed her to the non-competitive title of Records Support Technician 1, effective August 24, 2015. A review of the job specification reveals that the title of Records Support Technician 1 **does not** perform significantly different duties than an individual in the title of Records Support Technician 2. Instead, it appears as if Cole was

"demoted" to a lower level because she was unreachable for appointment on the subject certification. Based on the foregoing, it appears that East Orange is attempting to circumvent Civil Service law and rules by moving Cole to a lower level non-competitive title.

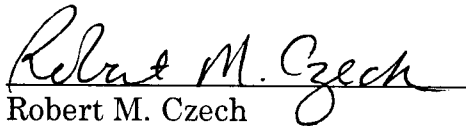
N.J.S.A. 11A:3-1 and *N.J.A.C.* 4A:3-3.1(a) provide that each position in the career and unclassified services shall be assigned to a job title. *N.J.A.C.* 4A:3-3.3(d) provides that positions in the career, unclassified and senior executive service shall be subject to job audit to ensure accurate classification and compliance with Titles 11A and 4A. Moreover, *N.J.A.C.* 4A:3-3.4 provides that no person shall be appointed or employed under a title not appropriate to the duties to be performed nor assigned to perform duties other than those properly pertaining to the assigned title which the employee holds. In the instant matter, East Orange asserts that Cole's proper classification should be Records Support Technician 1, a non-competitive title. However, it appears that such an appointment might have been an attempt to circumvent Civil Service law and rules as explained above. Since the Civil Service Commission (Commission) cannot determine on the existing record the title to which Cole should be classified, it is appropriate that this matter be referred to the Division of Agency Services for a classification review of Cole's position.

ORDER

Therefore, it is ordered that the request for the waiver of the appointment requirement be held in abeyance pending the determination of the Division of Agency Services regarding India Cole's position.

It is further ordered that the Division of Agency Services complete its classification review of Cole and issue its determination to Cole, East Orange and the Civil Service Commission within 30 days of the issuance of this decision.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE DAY OF, 2016



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