

B-24



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jomarie Sacchinelli,
Bergen County

Administrative Appeal

CSC Docket No. 2015-2146

ISSUED: MAR 24 2017 (SLD)

Jomarie Sacchinelli, a Program Monitor,¹ Bergen County, appeals her return to her permanent title of Coordinator Monitoring and Evaluation.

By way of background, the parties agree that the appellant received a regular appointment to the title of Coordinator Monitoring and Evaluation, effective May 30, 2012, in the Public Works Department. On January 1, 2014, the appellant was made the "Acting" County Division Head² for Community Transportation, in the Department of Human Services. Thereafter, on January 6, 2015, the appellant was returned to her previous position of Coordinator Monitoring and Evaluation in the Public Works Department.

Subsequently, the appellant appealed claiming that she was relieved of her duties as "Acting" County Division Head by the new administration, without just cause. Specifically, she asserts that she was told that she was relieved of her duties for political reasons.³ Moreover, she maintains that she was never disciplined nor told that her work was unsatisfactory. Rather, she asserts that she performed her duties admirably, and in September 2013 and again in October 2013, she was asked

¹ As a result of a layoff, the appellant was demoted to the title of Program Monitor, effective December 31, 2015.

² County Division Head is an unclassified title. However, there is no such designation as "acting" under Civil Service law and regulations.

³ The appellant also asserts that she was discriminated against due to her gender. However, the Civil Service Commission does not have jurisdiction to address claims of discrimination for local employees.

to temporarily take over the duties of the "Director of Community Transportation" while the administration searched for a new director. She claims that during a meeting in October, she requested additional compensation and to report to someone other than J.L.,⁴ since she feared retaliation. The appellant maintains that thereafter she was introduced to the staff as the "Interim Director" and was advised that she would be reporting to the administration directly. The appellant asserts that this set the stage for a "long battle" between J.L. and the administration and led to J.L.'s contempt towards the appellant. The appellant details various issues she experienced with J.L. through the November 2014 elections which culminated in the removal of her "Acting" duties as Director of Community Operations on December 31, 2014 and a reduction in salary.

The appellant maintains that on January 5, 2015 she was told to report to "Operations." However, she asserts that no one would tell her why she was removed as director except to say it was "politics." The appellant contends that despite spending all day attempting to speak to someone in the administration, she received no response. The appellant asserts that she was later told that D.N., the new County Administrator, was the one who ordered that she be reassigned. The appellant believes that it was due to her affiliation with J.B., the former Chief of Staff, who had previously removed D.N. from a position. Moreover, she states that when she arrived at "Operations," T.C.,⁵ the Public Works Department Head, showed her to a dirty and moldy office, and told to file dirty and dusty files causing her to cough. T.C. also told her to cover the phones for an hour, and when she objected as she had not been trained to do so and it was not a listed duty of her title, T.C. told her that she could be required to perform duties below her title. The appellant asserts that when she complained about how she was being targeted and treated like a criminal solely because she was friendly with J.B., despite being such a valuable employee, she was told that politics are a dirty business.

The appellant also claims that the new administration failed to hold a meeting with her to explain the scope of her duties and her "staff" is being pressured to take on many new responsibilities. She claims that other employees have been told to "stay away" from her, her new "office" has been underwater several times and is riddled with mold causing health issues, and she is being subjected to humiliation and defamation of character. Furthermore, she asserts that the duties she is currently assigned are below the scope of her title.

⁴ Agency records indicate that J.L. received a regular appointment to the title of Coordinator, Child Day Care Program, effective March 26, 2007; she received an unclassified appointment to the title of County Department Head, effective January 1, 2011; was returned to her permanent title, effective April 16, 2014; and was appointed to the unclassified title of County Department Head, effective April 18, 2014.

⁵ Agency records indicate that T.C. was appointed to the unclassified title of County Department Head, in the Department of Public Works, effective January 5, 2009, and appointed to the unclassified title of County Road Supervisor, effective March 11, 2015.

In response, the appointing authority, represented by Eric M. Bernstein, Esq., notes that on March 27, 2014, a request for personnel change was submitted, proposing that the appellant be made "Acting" County Division Head, effective January 1, 2014. The change resulted in an increase in her salary and a transfer from the Department of Public Works to the Department of Human Services. The appointing authority maintains that this appointment was a temporary appointment and not a permanent appointment, pursuant to *N.J.A.C. 4A:4-1.6(b)*. It also notes that although she should have only been in the position for six months, a "provisional" appointee has no automatic right or expectation of achieving a permanent appointment. Furthermore, the appointing authority provides a November 21, 2014 e-mail from the appellant, requesting an additional leave of absence from her permanent position of Coordinator of Monitoring and Evaluation, so that she could continue to fill the "Acting Director, Community Transportation" position without losing her permanent status as a Coordinator of Monitoring and Evaluation.

Additionally, the appointing authority contends that, as noted by the appellant herself, she had personal issues with J.L., who was the Director of Human Services. The appointing authority argues that although the previous administration accommodated the appellant's issues with J.L., and permitted her to report to someone other than J.L., failure to continue such an accommodation, does not violate any Civil Service law or regulation.

The appointing authority also notes that although the appellant maintains that she was transferred without cause, and that as her work was impeccable, her appeal reveals a multitude of personal conflicts she encountered as part of her temporary position as an Acting Director, including her claims that she was "abandoned" by the prior administration. The appointing authority argues that although the appellant relies on T.C.'s comment that her return to her permanent title was "just politics" to support her claims, T.C. denies stating that her return was "just politics." It also argues that the appellant had no vested interest in her position as "Acting" County Division Head as a temporary appointment is only to be six months. Additionally, it notes that based on the personal conflicts the appellant references on appeal, those issues alone, were sufficient to justify her return to her permanent position.

With regard to the appellant's claims concerning her current work location, the appointing authority acknowledges that her work location is an older building, however, the department is expected to relocate to a new building. Moreover, as a result of her complaints, the Health Inspector has inspected her office twice and has been deemed safe.

The County and Municipal Personnel System (CAMPS) reveals that the appellant was transferred to the Department of Human Services, effective January

1, 2014 with an increase in salary. She was subsequently transferred back to the Department of Public Works, effective January 6, 2015.

CONCLUSION

The appellant asserts that she was removed from the position of "Acting" County Division Head due to political reasons when a new administration was elected. Initially, it must be noted that there is no such designation as an "acting" appointment under Civil Service rules. *N.J.S.A.* 11A:4-13 and *N.J.A.C.* 4A:4-1 *et seq.* provide for regular, conditional, provisional, interim, temporary, and emergency appointments. See *In the Matter of Russell Davis* (MSB, decided August 10, 2005); *In the Matter of Michael Shaffery* (MSB, decided September 20, 2006). Although the appointing authority maintains that her appointment was actually a temporary appointment pursuant to *N.J.A.C.* 4A:4-1.7(a), the Civil Service Commission (Commission) does not agree. In this regard, the appellant was assigned the duties of the unclassified title of County Division Head. Unclassified appointments are purely discretionary and may be terminated at any time without reason or cause. See *N.J.A.C.* 4A:4-1.3(b). See also, *In the Matter of Lucille Santitoro* (MSB, decided November 8, 1996). Therefore, it is unnecessary to make a temporary appointment to an unclassified title. Rather, so long as it did not exceed the maximum permitted by *N.J.S.A.* 11A:3.5(l), the appellant should have been recorded as appointed to the unclassified title of County Division Head, effective January 1, 2014.

Although the appellant claims that her return to her permanent title of Coordinator Monitoring and Evaluation was due to improper political reasons; as noted above, the title of County Division Head is an unclassified position, and thus, are purely discretionary. Moreover, other than the appellant's mere allegations that she was returned to her permanent title for an improper political reason, she presents no evidence in support. Additionally, the appellant herself repeatedly acknowledges that her appointment to the position of County Division Head, was an "interim" or "acting" appointment while the then Administration searched for a permanent replacement. Furthermore, even if the appellant was returned to her permanent title due to a new Administration, that in and of itself is not inappropriate as the title of County Division Head is an unclassified title, and thus she her unclassified appointment could be terminated at the appointing authority's discretion.

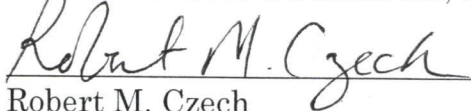
Although the appellant's appeal is denied, her CAMPS record should be corrected to reflect her appointment to the unclassified title of County Division Head, effective January 1, 2014. As the record reflects that the appellant had requested a leave of absence in January and November 2014 from her career service title of Coordinator Monitoring and Evaluation, her CAMPS record should also reflect her return to her permanent title of Coordinator Monitoring and Evaluation, effective January 6, 2015.

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 22ND DAY OF MARCH, 2016



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