



STATE OF NEW JERSEY

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

In the Matter of Quinshawna
Phillips, *et al.*, Department of the
Treasury

Administrative Appeals

CSC Docket Nos. 2019-116, *et al.*

ISSUED: November 5, 2018 (SLD)

The Department of the Treasury appeals the calculation of the salaries of Quinshawna Phillips, Doreena Asiana, Jason Auletta, Andrea Chilson, Arielle DeMattia, Jacqueline Efstathiou, Elizabeth Giglio, Moinna Jean, Amber Lazo, Mohammad Malik, Asad Mamun, Dina Napolitano, Matthew Packen, Brianne Ricciardelli, Halpin Stephen, Sandra Wilk and Susan Davis, upon their advancement from a trainee title to the primary title, pursuant to *N.J.A.C. 4A:3-4.14(a)*.

By way of background, effective May 13, 2017: Malik, Mamun, Asiana, Auletta, Chilson, Efstathiou, Lazo, Napolitano and Wilk were appointed to the Auditor Taxation Trainee title; Jean was appointed to the Tax Representative Trainee title; and Packen, Phillips, MeMattia, Giglio, Ricciardelli and Stephen were appointed to the Investigator Trainee, Taxation title. Davis was appointed to the Auditor Taxation Trainee title, effective July 22, 2017. Upon their appointments to their respective trainee titles, their salaries from their previously held titles were retained and “red-circled” pursuant to *N.J.A.C. 4A:3-4.14(a)*, as follows:

Name	Prior title	Appt date	Trainee title	Salary
Malik	Auditor 2*	5/13/17	Auditor Taxation Trainee	63,902.66 Step 5 P22
Mamun	Auditor 1*	5/13/17	Auditor Taxation Trainee	55,732.51 Step 5 P19
Asiama	Taxpayer Service Representative 3	5/13/17	Auditor Taxation Trainee	53,268.53 Step 5 P18
Auletta	Investigator 2 Taxation	5/13/17	Auditor Taxation Trainee	63,902.66 Step 5 P22
Chilson	Investigator 2 Taxation	5/13/17	Auditor Taxation Trainee	63,902.66 Step 5 P22
Davis	Auditor 2*	7/22/17	Auditor Taxation Trainee	61,404.58 Step 4, P22
Efstathiou	Taxpayer Service Representative 3	5/13/17	Auditor Taxation Trainee	55,322.35 Step 6 P18
Lazo	Taxpayer Service Representative 3	5/13/17	Auditor Taxation Trainee	53,268.53 Step 5 P18
Napolitano	Taxpayer Service Representative 2	5/13/17	Auditor Taxation Trainee	61,051.61 Step 5 P21
Wilk	Investigator 3 Taxation	5/13/17	Auditor Taxation Trainee	53,576.15 Step 4 P19
Jean	Secretarial Assistant 2, Non-Stenographic*	5/13/17	Tax Representative Trainee	51,867.67 Step 8 A15
Packen	Taxpayer Service Representative 3	5/13/17	Investigator Trainee, Taxation	49,160.89 Step 3 P18
Phillips	Taxpayer Service Representative 3	5/13/17	Investigator Trainee, Taxation	53,268.53 Step 5 P18
DeMattia	Taxpayer Service Representative 3	5/13/17	Investigator Trainee, Taxation	49,160.89 Step 3 P18
Giglio	Taxpayer Service Representative 3	5/13/17	Investigator Trainee, Taxation	53,268.53 Step 5 P18
Ricciardelli	Taxpayer Service Representative 3	5/13/17	Investigator Trainee, Taxation	49,160.89 Step 3 P18
Stephen	Taxpayer Service Representative 3	5/13/17	Investigator Trainee, Taxation	53,268.53 Step 5 P18

*Malik was appointed to the unclassified title of Auditor 2, effective December 29, 2012; Mamun was appointed to the unclassified title of Auditor 1, effective October 17, 2015; Davis was appointed to the unclassified title of Auditor 2, effective January 11, 2014; and Jean was provisionally appointed, pending promotional examination procedures to the title of Secretarial Assistant 3, Non-Stenographic, effective August 20, 2016. The remainder of the appellants had received regular appointments to the above noted prior titles.

Upon completion of their respective trainee periods, the appellants received appointments to their primary titles as follows:

Name	Trainee title	Salary Range	Appt date	New title	Salary range
Malik	Auditor Taxation Trainee	63,902.66	5/12/18	Auditor 3, Taxation	64,700.55 Step 6 P21
Mamun	Auditor Taxation Trainee	55,732.51	5/12/18	Auditor 3, Taxation	59,844.55 Step 4 P21
Asiama	Auditor Taxation Trainee	53,268.53	5/12/18	Auditor 3, Taxation	54,988.55 Step 2 P21
Auletta	Auditor Taxation Trainee	63,902.66	5/12/18	Auditor 3, Taxation	64,700.55 Step 6 P21
Chilson	Auditor Taxation Trainee	63,902.66	7/7/18	Auditor 3, Taxation	65,994.56** Step 6 P21
Davis	Auditor Taxation Trainee	61,404.58	7/21/18	Auditor 3, Taxation	63,518.00** Step 5 P21
Efstathiou	Auditor Taxation Trainee	55,322.35	5/12/18	Auditor 3, Taxation	57,416.55 Step 3 P21
Lazo	Auditor Taxation Trainee	53,268.53	5/12/18	Auditor 3, Taxation	54,988.55 Step 2 P21
Napolitano	Auditor Taxation Trainee	61,051.61	5/12/18	Auditor 3, Taxation	62,632.67 Step 4 P22*
Wilk	Auditor Taxation Trainee	53,576.15	5/12/18	Auditor 3, Taxation	54,988.55 Step 2 P21
Jean	Tax Representative Trainee	51,867.67	5/12/18	Taxpayer Service Representative 3	52,238.99 Step 4 P18
Packen	Investigator Trainee, Taxation	49,160.89	5/12/18	Investigator 3 Taxation	50,248.70 Step 2 P19
Phillips	Investigator Trainee, Taxation	53,268.53	5/12/18	Investigator 3 Taxation	54,647.68 Step 4 P19
DeMattia	Investigator Trainee, Taxation	49,160.89	5/12/18	Investigator 3 Taxation	50,248.70 Step 2 P19
Giglio	Investigator Trainee, Taxation	53,268.53	5/12/18	Investigator 3 Taxation	54,647.68 Step 4 P19
Ricciardelli	Investigator Trainee, Taxation	49,160.89	5/12/18	Investigator 3 Taxation	50,248.70 Step 2 P19
Stephen	Investigator Trainee, Taxation	53,268.53	5/12/18	Investigator 3 Taxation	54,647.68 Step 4 P19

*As Napolitano's work week was designated as NE instead of 35, her salary range is one range higher than the other employees appointed to the Auditor 3, Taxation title.

** A new salary schedule became effective July 7, 2018.

On appeal, the appointing authority argues that the appellants' salaries were incorrectly calculated upon their movement from the trainee title to the primary title of their respective titles. For example, the appointing authority points to the reconstructed salary history of Phillips. It notes that Phillips was appointed to the Investigator Trainee, Taxation title, effective May 13, 2017, despite being permanent in the title of Taxpayer Services Representative 3, in order to make a career change. Pursuant to *N.J.A.C.* 4A:3-4.14, her salary of \$53,268.53 was maintained upon her appointment to the trainee title. Thereafter, upon her advancement to the Investigator 3, Taxation title on May 12, 2018, this agency denied Phillips an August 19, 2017, two percent across the board (ATB)¹ increase as she had been "red-circled" as of the effective date. Specifically, this agency maintained that since *N.J.A.C.* 4A:3-4.14(a) provided that "the employee shall remain at his or her salary until the salary rate of the trainee exceeds the employee's salary," she was not entitled to the ATB increase upon her appointment to the journeyman title and her salary should be \$54,647.68 (step 4, salary range P19).

Although the appointing authority agrees that Phillips would not be entitled to the ATB during her time as a Trainee, it maintains that she would be entitled to the effect of that ATB when reconstructing her salary upon her appointment to the primary title. Specifically, the appointing authority argues that *N.J.A.C.* 4A:3-4.14(a) provides that upon advancement to the primary title, the "employee's salary shall be determined by reconstructing the employee's salary as if the employee had continued to serve in his or her permanent title during the training period or by the normal advancement from a trainee to a primary title, whichever is greater." It asserts that to reconstruct Phillips' salary history, you would start in October 2016 of her Personnel Management Information System (PMIS) history wherein she was a Taxpayer Services Representative 3, on step 5 of salary range P18 with an anniversary date of 21/17. Therefore, during the process of reconstructing Phillips' salary, the retroactive August 19, 2017 ATB and the subsequent increase upon her anniversary date of 21/17 would be factored in, thereby placing her on step 6, of salary range P18 (\$56,428.77). Based on the reconstruction, upon her advancement to the Investigator 3, Taxation (P19) title, she retains her salary and is placed between step 4 and step 5, with a salary of step 4+, \$56,428.77.

CONCLUSION

N.J.A.C. 4A:3-4.14(a) provides, in pertinent part that:

. . . an employee with permanent status or with at least six months' continuous service may, at the option of the appointing authority, retain his or her current salary when appointed to a trainee title. The

¹ The current Communication Workers of America (CWA) negotiated agreement, provides for several retroactive ATB increases, including the one referenced in this matter.

employee shall remain at his or her salary until the salary rate of the trainee title exceeds the employee's salary, the employee advances to the primary title after completing the training period, or the employee is advanced to a higher title. Upon advancement from the trainee title to the primary title, the employee's salary shall be determined by reconstructing the employee's salary as if the employee had continued to serve in his or her permanent title during the training period or by the normal advancement from a trainee to a primary title, whichever is greater.

In the instant matter, it is noted that the 2018 CWA contract provided for retroactive ATB increases, one of which occurred during the training period at issue. In reconstructing the salaries of the appellants upon their advancement from the trainee title to the primary title, this agency determined that the appellants were not entitled to the ATB increase as they had been “red-circled” during the time in question. However, the Commission does not agree. In this regard, *N.J.A.C.* 4A:3-4.14(a) provides in relevant part, that upon appointment to the trainee title, that an employee’s salary in his or her prior title may be retained, or “red-circled.” Therefore, during the trainee period, the employee would not be entitled to any increases, either due to an ATB increase or anniversary date increment. However, *N.J.A.C.* 4A:3-4.14(a) also provides that upon the advancement from the trainee title to the primary title, the employee’s salary “shall be determined by reconstructing the employee's salary as if the employee had continued to serve in his or her permanent title during the training period.” Therefore, as the rule requires that the employee’s salary be “reconstructed,” and in this matter, **as if the employee had continued in their permanent title**, the retroactive ATB increases and any anniversary date increments must be factored into the employee’s salary, prior to determining what their salary should be upon their movement to the primary title. Once the employee’s salary is reconstructed, then the move from the previously held title to the new primary title must be considered, and the appropriate rule applied for such movement. For example, if the movement from the previously held title to the new primary title would be considered a promotion, then *N.J.A.C.* 4A:3-4.9 should be applied and if the movement would be considered a demotion, then *N.J.A.C.* 4A:3-4.10 should be applied. To do otherwise would be to improperly complete the “restructuring” of an employee’s salary under *N.J.A.C.* 4A:3-4.14(a). Therefore, based on the foregoing, the appellants’ salaries should be recalculated consistent with this decision.

ORDER

Therefore, it is ordered that this appeal be granted and the appellants’ salaries reconstructed.

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 31ST DAY OF OCTOBER, 2018



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Elizabeth Giglio (2019-122)
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Mohammad Malik (2019-125)
Asad Mamun (2019-126)
Dina Napolitano (2019-127)
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