

STATE OF NEW JERSEY

In the Matter of Jeannette Hagood, Principal Clerk Typist, Department of Health

CSC Docket No. 2019-3241

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Administrative Appeal

ISSUED: October 29, 2019 (RE)

Jeannette Hagood, represented by Michele Long-Vickers, CWA Local 1040, requests a provisional appointment for Jeannette Hagood to Principal Clerk Typist, Department of Health with back pay.

By way of background, the petitioner was appointed from an open competitive list to Nursing Services Clerk on July 7, 2008 at Greystone Park Psychiatric Hospital (Greystone). Greystone issued a vacancy notice for a Principal Clerk Typist position in October 2017, and advised the petitioner she had been selected. In doing so, it indicated in the letter to her that the offer was contingent upon approval of the promotion by the Department of Health and the New Jersey Civil Service Commission. It stated that she would not be officially appointed into the position until the promotion package received approvals, at which time she would be notified of the effective date of the new position. In February 2018, Greystone informed the petitioner that the position was not approved as the title is in the "R" ERG, or first level supervisory bargaining unit, and the position did not supervise at least three subordinate staff.

In her request to the Civil Service Commission (Commission), the petitioner argued that another position to Secretarial Assistant 2 was filled in by a former Nursing Services Clerk. She maintains the one vacancy should not have been approved while the other was disapproved. The petitioner believes that the appointing authority should not be allowed to post notices of vacancies prior to approval from the Commission. She also argues that Principal Clerk Typists have never supervised subordinates but are considered clerical support staff, while

Secretarial Assistant 2 incumbents have supervised support staff. She refers to two other individuals who were not required to supervise while in the Principal Clerk Typist title although they no longer hold those positions. The petitioner requests a retroactive provisional appointment to Principal Clerk Typist with back pay.

CONCLUSION

In the instant matter, there is no basis to provisionally appoint the petitioner to Principal Clerk Typist. First, vacancy postings are initiated by the appointing authority and they are not monitored or controlled by this agency. Such postings are used by the appointing authority to generate a list of interested individuals to fill vacant positions. If a provisional appointment pending promotional examination results from the posting, the appointing authority must adhere to Civil Service rules and procedures regarding provisional appointments and promotional examination announcements. See In the Matter of Sarah J. Seigel (MSB, decided January 11, 2000). Each request is different, and the approval of one vacancy has no bearing on the approval or disapproval of another vacancy. Moreover, even if there had been an approved vacancy, the Civil Service Commission does not require agencies to offer vacant positions to employees, or to fill them.

Next, the petitioner never performed the duties of a Principal Clerk Typist appointee. Rather, the petitioner contends that since Greystone offered her the position and she accepted, she should retroactively be provisionally appointed as a Principal Clerk Typist. The Commission disagrees in this case. It is apparent that upon further review of the position, Greystone determined that utilization of the Principal Clerk Typist title was not an appropriate classification since the position would not supervise subordinate staff. That determination is consistent with the State Classification Plan. In this regard, titles are assigned to ERGs based on the classification of the position by this agency. See N.J.S.A. 11A:3-1. Each ERG is distinctly defined, and the "R" ERG is defined as those titles used in the primary or first level of supervision. See In the Matter of Alan Handler, et al., Department of Labor and Workforce Development (CSC, decided October 7, 2015). Accordingly, a position for Principal Clerk Typist could not be approved without supervisory duties.

As to the Principal Clerk Typists the petitioner alleges do not supervise, even if true, the misclassification of another individual's position cannot be used to support the approval to misclassify a different position. Additionally, an award of backpay is not warranted in cases where the duties of a position have not been performed. The appellant has absolutely no entitlement to a provisional appointment, much less to a position for which her appointment was disapproved, and any claim for differential back pay is not merited.

ORDER

Therefore, this request is 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 23rd DAY OF OCTOBER, 2019

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Civil Service Commission

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