



STATE OF NEW JERSEY

In the Matter of Tanya Berry,
Correctional Police Sergeant
(PS6184I), Department of Corrections

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

CSC Docket No. 2019-1991

Examination Appeal

ISSUED: July 31, 2019 (JH)

Tanya Berry appeals her seniority score and rank on the promotional examination for Correctional Police Sergeant (PS6184I), Department of Corrections.¹ The appellant received a final average score of 82.040 and appears at rank 444 on the subject eligible list.

The subject examination was open to employees in the competitive division who had an aggregate of one year of continuous permanent service and were serving in the Senior Interstate Escort Officer, Senior Correctional Police Officer or Senior Correctional Police Officer Bilingual in Spanish and English title as of the November 21, 2017 closing date.² The subject test was administered on July 28, 2018.

On appeal, Berry refers to *N.J.A.C.* 4A:4-7.9 (Resignation/new appointment)³ and presents that “[t]he main objective of this appeal is to receive all accumulated

¹ On May 1, 2018, Public Law 2017, Chapter 293 took effect, renaming Correction Sergeant to Correctional Police Sergeant. *See also N.J.S.A.* 11A:2-11.1.

² Senior Correction Officer was renamed to Senior Correctional Police Officer pursuant to Public Law 2017, Chapter 293, *supra*. *See also N.J.S.A.* 11A:2-11.1.

³ *N.J.A.C.* 4A:4-7.9 provides:

service credits and points . . . to ensure my 10 years of permanent status as an officer before leaving New Jersey Department of Corrections, as well as the permanent status upon returning to NJDOC is applied to my test results.” In this regard, Berry explains that her “regular appointment date as an officer at the New Jersey Department of Corrections is April 30, 2004. On July 11, 2014, I resigned from a permanent status NJDOC in good standing to pursue another career as a Parole Officer. I was dismissed from the academy from New Jersey State Parole Board and then was rehired with NJDOC on February 21, 2015 in permanent status.” In support of her appeal, she provides additional documentation including: a letter dated January 25, 2019 from Adam Verone, Manager Employee Relations, State Parole Board in which Verone indicates that “Tanya Berry’s separation with the State Parole Board on or around February 20, 2015 is considered a Resignation in Good Standing;” and a letter dated January 28, 2019 from Lori Bonner, Personnel Assistant 3, Human Resources – Region 4, Department of Corrections in which Bonner indicates that Berry served as a Senior Correction Officer “04/30/2005 -resigned in good standing on 07/11/2014” from the Senior Correction Officer title, served as a “Parole Officer Recruit 07/12/2014 – 02/20/2015[;] Senior Correction Officer 02/21/2015 – through the current date.”

CONCLUSION

A review of the record finds that Berry received a regular appointment to the Correction Officer Recruit title effective April 30, 2004; a regular appointment to the Senior Correction Officer title effective April 30, 2005; resigned in good standing from her Senior Correction Officer position effective July 11, 2014; received a regular appointment from an open competitive list to the Parole Officer Recruit title effective July 12, 2014; resigned in good standing from her Parole Officer Recruit position effective February 20, 2015; received an appointment from a regular reemployment list to the Senior Correction Officer title effective February 21, 2015.

N.J.A.C. 4A:4-7.9 provides that a permanent employee who is appointed from an open competitive list to a title in a different organizational unit with the same governmental jurisdiction shall be considered to have resigned from the previous

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- (a) A permanent employee who is appointed from an open competitive list to a title in a different organizational unit within the same governmental jurisdiction shall be considered to have resigned from the previous permanent title.
 1. Accumulated service for purposes of promotional eligibility and scoring, determining sick and vacation leave entitlements and seniority in layoffs, and in State service only, administrative leave entitlements, shall be retained.
 2. See *N.J.A.C.* 4A:3-4.4(b) for salary placement in State service.
 - (b) The employee may request placement on the regular reemployment list for the previous title.
 - (c) The new appointing authority shall inform the employee of his or her effective resignation of permanent status prior to the employee's new appointment.

permanent title and that accumulated service for purposes of determining sick and vacation leave, and in State service, administrative leave entitlements, shall be retained. The intent and thrust of this rule is for employees to retain their continuous permanent service if they were appointed to a different organizational unit from an open competitive list without an actual interruption in one's normal course of employment. Thus, while this provision applies to her movement from Senior Correction Officer to Parole Officer Recruit,⁴ it does not apply to her return to the Senior Correction Officer title on February 21, 2015.

In this regard, when Berry was rehired as a Senior Correction Officer, she was not appointed from an open competitive list. Rather, she was appointed from a regular reemployment list. See *N.J.A.C. 4A:4-7.9(b)*.⁵ As such, *N.J.A.C. 4A:4-7.10* governs this movement.⁶ Specifically, *N.J.A.C. 4A:4-7.10(d)* provides that seniority commences as of the date of regular reemployment. Thus, seniority for such purposes as eligibility for promotion and the awarding of points in promotional examinations, and layoff rights, commences as of the date of regular reemployment. Therefore, the rules do not permit an individual who returns to his or her former employer from a regular reemployment list to aggregate his or her prior service for purposes of continuous permanent service for promotional examination eligibility, the award of seniority points or layoff determinations. See e.g., *In the Matter of Raymond Coleman III, Correctional Police Sergeant (PS6184I), Department of Corrections* (CSC, decided December 5, 2018) (Appellant who had almost seven years of experience as a Senior Correction Officer, but who resigned in good

⁴ This movement meets the criteria specified in *N.J.A.C. 4A:4-7.9*: she was a permanent employee who was appointed from an open competitive list (S0566R) in a different organizational unit (State Parole Board) within the same governmental jurisdiction.

⁵ A review of the record finds that the appellant completed an application for reemployment dated August 30, 2014. By letter dated February 5, 2015, Agency Services informed Berry that her name had been placed on the regular reemployment list for Senior Correction Officer.

⁶ *N.J.A.C. 4A:4-7.10* provides:

- (a) A permanent employee who has resigned in good standing, received a general resignation, retired or voluntarily demoted, may request consideration for reemployment by indicating availability to his or her appointing authority.
- (b) Upon recommendation of the appointing authority that such reemployment is in the best interest of the service, the Chairperson or designee shall place the employee's name on a reemployment list. A regular reemployment list shall be subject to certification to all appointing authorities in a jurisdiction.
- (c) Police, sheriff's officer, and fire reemployment lists shall have unlimited durations. Regular reemployment lists for all other titles shall have durations of three years from the date of resignation, retirement, or voluntary demotion, unless the list is extended pursuant to *N.J.A.C. 4A:4-3.3(b)1*.
 - 1. Requests for reemployment must be submitted within the duration of the applicable list.
- (d) Seniority commences as of the date of regular reemployment.

standing to accept an appointment as Trooper with the State Police and was subsequently rehired from a regular reemployment list, incurred a break in service and did not possess the requisite three years of continuous permanent service as of the closing date). *See also, In the Matter of Steven Hadley* (CSC, decided April 6, 2011); *In the Matter of Carmen L. Salas* (MSB, decided April 18, 2000). To allow an individual who resigned to aggregate his or her prior service in order to be found eligible for a promotional exam or to award seniority points would be unfair to all of the applicants who were deemed eligible to compete in this examination who did not leave the organizational unit and served the required three years as a Senior Correction Officer without a break in service.

Regarding the appellant's seniority score, in State service, seniority is awarded on the basis of one point per year up to a maximum of five years (five points). When an announcement is opened to the open competitive requirements, seniority credit is given for all periods of service in a permanent capacity in any title currently in the competitive division up to the announced closing date. However, when an announcement is open to specific titles, seniority credit is only given for permanent service in those titles up to the five year limit. That is, only seniority in the title(s) to which the examination is open is awarded credit. The subject announcement was open to those employees serving in the Senior Interstate Escort Officer, Senior Correctional Police Officer or Senior Correctional Police Officer Bilingual in Spanish and English titles. Therefore, the appellant's argument that she should receive seniority points based on "all accumulated service credits and points" is misplaced. Accordingly, only the time Berry served in the Senior Correctional Police Officer title subsequent to her rehire date⁷ may be included in the seniority score for the Correctional Police Sergeant (PS6184I) exam. Thus, as of the closing date, the appellant served two years, nine months. Established seniority tables indicate that the appropriate amount of credit for candidates with two years, nine months of permanent service is 2.750 points. As such, the appellant has provided no compelling arguments or evidence that her examination was improperly scored or that she should have received a higher seniority score and rank on the subject eligible list. Therefore, the appellant has failed to support her burden of proof.

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.

⁷ As noted previously, *N.J.A.C.* 4A:4-7.10(d) explicitly provides that seniority commences as of the date of regular reemployment.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 31ST DAY OF JULY, 2019

Deirdre' L. Webster Cobb

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