



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Zoraida Rosa,
Human Service Specialist 2,
Bilingual Spanish/English
(PC1879U), Cumberland County

Bypass Appeal

CSC Docket No. 2020-739

ISSUED: OCTOBER 23, 2020 (EG)

Zoraida Rosa appeals the bypass of her name on the Human Service Specialist 2, Bilingual Spanish/English (PC1879U), Cumberland County eligible list.

The appellant, a non-veteran, appeared as the fourth ranked non-veteran eligible on the subject eligible list, which promulgated on March 30, 2017 and expired on March 29, 2020. A certification was issued on July 17, 2019 (PL190989) with the appellant as the first listed eligible. In disposing of the certification, the appointing authority bypassed the appellant, removed the fourth listed eligible, and appointed the second, third, fifth and sixth listed eligibles.

On appeal to the Civil Service Commission (Commission), the appellant asserts that the bypass of her name on the subject list was unwarranted. She argues that the other candidates were not more qualified than her. Additionally, the appellant asserts that she has worked as a Human Service Specialist 1, Bilingual Spanish/English for 12 years and has the most seniority of anyone in this title working for the appointing authority. She states that in her 12 years of work she has performed duties involving interviewing clients and processing cases for NJ SNAP, TANF, GA, and Medicaid programs. Further, she indicates that she has processed complex cases and interviewed clients that involve Case Management and Lifetime Limit/SAIF process for the GA and TANF. In this regard, the appellant contends that she is the only one of the candidates that possessed this experience as the four appointed individuals did not have training or experience with Case Management and Lifetime Limit process. Moreover, the appellant adds

that all of the case-work she is assigned is completed independently, efficiently and timely, with detail and quality given to each case. She asserts that she has never received any reprimands or disciplinary actions. Furthermore, she argues that she meets all the qualifications set forth in the employee handbook for promotion.

In response, the appointing authority states that the eligible list contained five candidates who were all interviewed and considered for promotions to the subject title. It explains that the appellant was not promoted for the following reasons: her error rate for eligibility determination accuracy was vastly inferior to the appointed candidates; the appellant's quantity of work was vast vastly inferior to the appointed candidates; critical errors regarding the appellant's work were discovered by State Agencies; her organizational skills were rated below minimum standards; the appellant's basic knowledge regarding various programs was determined to be below standards; the appellant was found to have not followed quality control protocols within the department; and the other candidates demonstrated the ability to accurately complete determinations for SNAP and TANF to the degree that they do not require a second party review upon approval of benefits while the appellant had not demonstrated this ability. In support of its contentions, the appointing authority submits a letter of counseling dated September 1, 2019, interview notes, individual monthly error rate notes, emails regarding error rates, and several Workers Work Load & Error Reports from 2019.

CONCLUSION

N.J.S.A. 11A:4-8, *N.J.S.A.* 11A:5-7, and *N.J.A.C.* 4A:4-4.8(a)3ii allow an appointing authority to select any of the top three interested eligibles on a promotional list, provided that no veteran heads the list. Moreover, it is noted that the appellant has the burden of proof in this matter. *See N.J.A.C.* 4A:2-1.4(c).

Initially, since the appellant, a non-veteran, was the first listed interested eligible on the certification, it was within the appointing authority's discretion to select any of the top three interested eligibles on the certification for each vacancy filled. While the appellant has argued that she met all the requirements for promotion and that she is more qualified than the appointed candidates, the appointing authority has argued otherwise. It indicates that the appellant was bypassed because of several deficiencies in her work and the ability of the selected candidates to perform certain work without the need for second party review. The appointing authority provided supporting documentation in support of its determination. However, the appellant has not rebutted the appointing authority's assertions. Further, it is noted that the appellant does not possess a vested property interest in the position. The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990). The appellant has not presented any substantive

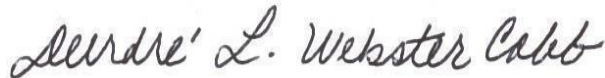
evidence regarding her bypass that would lead the Commission to conclude that the bypass was improper or an abuse of the appointing authority's discretion under the "Rule of Three." Moreover, the appointing authority presented legitimate reasons for the appellant's bypass that have not been persuasively refuted. Accordingly, a thorough review of the record indicates that the appointing authority's bypass of the appellant's name on the Human Service Specialist 2, Bilingual Spanish/English (PC1879U), Cumberland County eligible list was proper and the appellant has failed to meet her burden of proof in this matter.

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 21ST DAY OF OCTOBER 2020



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