



STATE OF NEW JERSEY

In the Matter of Robert Berman, *et al.*, Department of Labor and Workforce Development

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

CSC Docket Nos. 2021-931, *et al.*

Administrative Appeals

ISSUED: MARCH 26, 2021 (VJ)

The Department of Labor and Workforce Development (DOL) requests retroactive appointment dates for Robert Berman, Laura Dugan, Lisa Tumillo, Tracey Lewis, Leuranda Koleci, Alvin Harvey, Kevin Hirschfield and Gelimar Graziani. Since these matters address similar issues, they have been consolidated herein.

By way of background, on March 17, 2020, all State and local appointing authorities were notified, in relevant part, by the Division of Agency Services that due to the Covid-19 pandemic no certifications would be issued, effective March 18, 2020.

Robert Berman was provisionally appointed, pending promotional examination procedures, to the title of Vocational Rehabilitation Counselor 2, Deaf Language Specialist (Vocational Rehabilitation Counselor 2, DFS), effective January 7, 2017. An examination (PS0748N) for the title of Vocational Rehabilitation Counselor 2, DFS was announced with a closing date of October 21, 2019. The resulting eligible list of two names, including Berman as the second ranked eligible, promulgated on February 6, 2020 and expires on February 5, 2023. A certification (PS200684) containing both names were issued to the appointing authority on October 19, 2020. It is noted that the certification has not yet been disposed of. In the instant request, the appointing authority requests that Berman receive a retroactive appointment date to this title, effective March 18, 2020. Specifically, it asserts that due to the Covid-19 pandemic, a certification could not be timely issued.

Laura Dugan was provisionally appointed, pending promotional examination procedures, to the title of Executive Assistant effective, July 6, 2019. An examination (PS2498N) for the title of Executive Assistant 3 was announced with a closing date of February 21, 2020. The resulting eligible list of three names, including Dugan as the second ranked eligible, promulgated on June 11, 2020 and expires on June 10, 2023. A certification (PS200620) containing all three names was issued to the appointing authority on October 1, 2020. It is noted that the certification has not yet been disposed of. In the instant request, the appointing authority requests that Dugan receive a retroactive appointment date to this title, effective June 20, 2020. Specifically, it asserts that due to the Covid-19 pandemic, a certification could not be timely issued.

Lisa Tumillo and Tracey Lewis were provisionally appointed, pending promotional examination procedures, to the title of Senior Management Assistant effective November 9, 2019 and December 21, 2019, respectively. An examination (PS2497N) for the title of Senior Management Assistant was announced with a closing date of February 21, 2020. The resulting eligible list of two names, including Tumillo and Lewis as the first and second ranked eligibles, respectively, promulgated on July 2, 2020 and expires on July 1, 2023. A certification (PS200624) containing both names was issued to the appointing authority on October 1, 2020. It is noted that the certification has not yet been disposed of. In the instant request, the appointing authority requests that Tumillo and Lewis receive retroactive appointment dates to this title, effective July 18, 2020. Specifically, it asserts that due to the Covid-19 pandemic, a certification could not be timely issued.

Leuranda Koleci was provisionally appointed to the title of Senior Clerk Typist, effective September 14, 2019. An examination (PS0942N) for the title of Senior Clerk Typist, was announced with a closing date of November 21, 2019. The resulting eligible list containing only Koleci's name, promulgated on April 2, 2020 and expires on April 1, 2023. A certification (PS200621) containing only Koleci's name was issued to the appointing authority on October 1, 2020. It is noted that the certification has not yet been disposed of. In the instant request, the appointing authority requests that Koleci receive a retroactive appointment date to this title, effective April 11, 2020. Specifically, it asserts that due to the Covid-19 pandemic, a certification could not be timely issued.

Alvin Harvey was provisionally appointed, pending promotional examination procedures, to the title of Chief of Investigations, effective September 29, 2018. An examination (PS1044N) for the title of Chief of Investigations was announced with a closing date of December 23, 2019. The resulting eligible list containing only Harvey's name, promulgated on March 19, 2020 and expires on March 18, 2022. A certification (PS200621) containing only Harvey's name was issued to the appointing authority on October 1, 2020. It is noted that the certification has not yet been disposed of. In the instant request, the appointing authority requests that Harvey receive a retroactive

appointment date to this title, effective March 28, 2020. Specifically, it asserts that due to the Covid-19 pandemic, a certification could not be timely issued.

Kevin Hirschfield was provisionally appointed to the title of Administrative Analyst 4 effective February 15, 2019. An examination (PS9705N) for the title of Administrative Analyst 4, was announced with a closing date of May 21, 2019. The resulting eligible list of two names, including Hirschfield as the number one ranked eligible, promulgated on March 6, 2020 and expires on March 5, 2022. A certification (PS200621) containing both eligibles was issued to the appointing authority on October 1, 2020. It is noted that the certification has not yet been disposed of. In the instant request, the appointing authority requests that Hirschfield receive a retroactive appointment date to this title, effective March 14, 2020. Specifically, it asserts that due to the Covid-19 pandemic, a certification could not be timely issued.

Gelmar Graziani was provisionally appointed to the title of Vocational Rehabilitation Counselor 2 Bi-Lingual Spanish/English effective November 12, 2016. An examination (PS0747N) for the title of Vocational Rehabilitation Counselor 2 Bi-Lingual Spanish/English, was announced with a closing date of October 21, 2019. The resulting eligible list containing only Graziani's name, promulgated on February 13, 2020 and expires on February 12, 2023. A certification (PS200685) containing only Graziani's name was issued to the appointing authority on October 19, 2020. It is noted that the certification has not yet been disposed of. In the instant request, the appointing authority requests that Graziani receive a retroactive appointment date to this title, effective March 18, 2020. Specifically, it asserts that due to the Covid-19 pandemic, a certification could not be timely issued.

Agency Services has reviewed these matters and it supports the appointing authority's requests to grant retroactive dates of permanent appointment for the employees as listed above. Agency records indicate that all of the eligibles on all of the above-noted lists are non-veterans.

CONCLUSION

N.J.A.C. 4A:4-1.10(c) states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause. *N.J.A.C.* 4A:8-2.3(b) provides in pertinent part that special reemployment lists shall have priority over all other lists and non-competitive appointments. Generally, the award of a retroactive appointment date is for seniority purposes only and is limited to situations in which an individual could have been appointed on the requested retroactive date but as a result of an error on the part of the either the appointing authority or this agency, he or she received a later appointment date.

In the instant matter, the record establishes that all employees were reachable for appointment as of the requested retroactive effective dates. *See N.J.A.C. 4A:4-4.8(a)3.* However, due to the suspension of certification activities for non-public health and safety related positions during the onset of the Covid-19 pandemic, their regular appointments from these lists were not timely effectuated. Finally, the record establishes that all the individuals have been performing the duties of their promotional positions since the requested retroactive dates. Under these circumstances, good cause has been presented to dispose of the above-noted certifications so that the indicated employees may be appointed to their respective titles. Moreover, upon their successful completion of a current working test period, they shall be provided a retro-active appointment date, as follows, for salary step placement and seniority-based purposes only:

Name	Title	Retro-active Appointment Date
Robert Berman	Vocational Rehabilitation Counselor 2, DFS	March 18, 2020
Laura Dugan	Executive Assistant 3	June 20, 2020
Lisa Tumillo	Senior Management Assistant	July 18, 2020
Tracey Lewis	Senior Management Assistant	July 18, 2020
Leuranda Koleci	Senior Clerk Typist	April 11, 2020
Alvin Harvey	Chief of Investigations	March 28, 2020
Kevin Hirschfield	Administrative Analyst 4	March 14, 2020
Gelmar Graziani	Vocational Rehabilitation Counselor 2, Bilingual Spanish/English	March 18, 2020

ORDER

Therefore, it is ordered that these requests be granted, and the outstanding certifications be recorded appointing the respective individuals. Moreover, that upon successful completion of a current working test period, the individuals named above be given retroactive dates of permanent appointment, for salary step placement and seniority-based purposes only.

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 24TH DAY OF MARCH, 2021

Deirdre' L. Webster Cobb

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c: Robert Berman (2021-930)
Laura Dugan (2021-931)
Lisa Tumillo (2021-932)
Tracey Lewis (2021-933)
Leuranda Koleci (2021-934)
Alvin Harvey (2021-935)
Kevin Hirschfield (2021-936)
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