



STATE OF NEW JERSEY

In the Matter of Nalini
Ammanamanchi, Administrative
Analyst 4, Accounting (PS7912N),
Department of Labor and Workforce
Development

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

CSC Docket No. 2024-1130

List Bypass

ISSUED: February 7, 2024 (SLK)

Nalini Ammanamanchi appeals the bypass of her name on the Administrative Analyst 4, Accounting (PS7912N), Department of Labor and Workforce Development eligible list.

By way of background, the appellant appeared on the PS7912N eligible list, which promulgated on January 26, 2023, and expires on January 25, 2025. The appellant's name was certified on January 26, 2023, (PS230089) for a position in the subject title. A total of three names were certified. The first positioned candidate was removed, the appellant, who was the second position candidate, was bypassed, and the third positioned candidate was appointed. Thereafter, the appellant's name was certified on October 4, 2023, (PS232142) for a position in the subject title. A total of four names were certified, which included three names from the Administrative Analyst 4, Accounting (PS0637N), Department of Labor and Workforce Development eligible list. The appellant, the first positioned candidate was bypassed, and the second through fourth candidates were appointed. Subsequently, the appellant's name was certified on December 19, 2023, (PS232663) for a position in the subject title. A total of two names were certified. The appellant is the first positioned candidate. and the second positioned candidate is from the PS0637N eligible list. The PS232663 certification's disposition is due March 19, 2024, and has not yet been returned.

On appeal, the appellant highlights that she is the remaining eligible from the PS7912N eligible list. She notes that the appointing authority posted four vacancy announcements for a position in the subject title. The appellant states that although she interviewed for these provisional appointments, she was not selected. She provides that the appointing authority advised that internal candidates could not be offered these positions and some of the selected candidates were on the PS0637N eligible list. The appellant indicates that one of the provisionals is no longer employed by the appointing authority while another provisional did not pass the test for the subject examination. She believes if the fourth provisional employee had passed the test, that candidate would have been permanently appointed. Therefore, the appellant requests to know what happened to the fourth position in the subject title.

The appellant asserts that she is a conscientious, hardworking, and motivated employee who has performed her job responsibilities, along with additional duties. Further, she states that her performance has been satisfactory to both her supervisors and management. Therefore, she believes that she should be promoted to the remaining position. The appellant highlights that she has been a lead worker for three employees at different times, one at a time, in her current title as she “supervised” them although she did not sign their Performance Assessment Reviews (PARs) or complete their timesheets. She indicates that she never turns down training for a new duty, she takes initiative to learn on her own, and she never turns down a new task or added responsibility. Additionally, the appellant presents that she asks for help when needed and assists whenever possible. She highlights her education and work experience. The appellant notes that she is remaining eligible on the PS7912N list, which made that list incomplete, and she is concerned that she will still be the only eligible remaining on a list after subsequent certifications.

In response, the appointing authority presents that the appellant was bypassed on certification PS232142 in favor three provisional employees who were permanently appointed in accordance with the Rule of Three.

In reply, the appellant states that although the appointing authority provides that she was bypassed in favor of three provisional employees, she notes that there were originally four provisional positions. She indicates that the appointing authority has still not addressed her question as to what happened to the fourth position. The appellant provides that the appointing authority issued six vacancy announcements for a position in the subject title where it indicated that there were either four or two positions vacant. She highlights that she applied for all six vacancy positions as well as the subject examination and the PS0637N promotional examination, even though she knew it was not necessary for her to apply to the PS0637N examination. She asserts that her non-appointment for these positions have not been addressed, and she is worried that she will remain on the PS7912N eligible list, which is incomplete, and not be appointed, which she believes is unfair.

CONCLUSION

N.J.S.A. 11A:4-8, *N.J.S.A.* 11A:5-6, 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 a disabled veteran or veteran does not head the list.

As set forth above, the “Rule of Three” allows an appointing authority to use discretion in making appointments. As long as that discretion is utilized properly, an appointing authority’s decision will not be overturned. *Compare, In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984) (Hearing granted for individual who alleged that bypass was due to anti-union animus); *Kiss v. Department of Community Affairs*, 171 *N.J. Super.* 193 (App. Div. 1979) (Individual who alleged that bypass was due to sex discrimination afforded a hearing).

In this matter, the record indicates that the appointing authority’s appointments complied with the Rule of Three. Specifically, the appointing authority provides that on certification PS232142, it permanently appointed the three eligibles that had been provisionally serving in the subject title which is a legitimate business reasons for its selection. Further, the appellant has not argued that any of her non-appointments, or presented any evidence to support such an argument, were based on non-legitimate business reasons.

Concerning the appellant’s belief that it is unfair that she is the lone eligible remaining on the PS7912N eligible list, individuals whose names merely appear on a list do not have a vested right to appointment. *See In re Crowley*, 193 *N.J. Super.* 197 (App. Div. 1984), *Schroder v. Kiss*, 74 *N.J. Super.* 229 (App. Div. 1962). 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). Further, under *N.J.A.C.* 4A:4-4.2, an appointing authority is entitled to a complete certification, which consists of three interested eligibles, for each permanent appointment. Therefore, as the appellant was the sole eligible that remained on the PS7912N eligible, that list was incomplete. Therefore, it was appropriate for certifications PS232142 and PS232663 to be issued with names certified from both the PS7912N and PS0637N eligible list so that the appointing authority would have a complete list to make permanent appointments. Moreover, as the appointments on certification PS232142 complied with the Rule of Three, there was nothing unfair about her non-appointment under Civil Service law and rules. Similarly, as there are only two names on certification PS232663, which signifies that it is incomplete, the appointing authority will have the option of appointing both, either, or neither eligible on that certification.

Regarding the appointing authority’s vacancy announcements, vacancy postings are initiated by the appointing authority and they are not monitored 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. Therefore, the requirements set forth in the vacancy posting may not necessarily be those included on the resultant promotional announcement. *See In the Matter of Sarah J. Seigel* (MSB, decided January 11, 2000). As such, there is nothing in the record that indicates that the appointing authority violated Civil Service law and rules by not appointing the appellant provisionally. Moreover, regarding the appellant's questioning as to why she has not been appointed to the last position, even if a vacancy existed, there is no provision in Civil Serviced law or rules that **requires** an appointing authority to fill a vacancy immediately upon its creation. *See In the Matter of Todd Sparks* (MSB, decided April 6, 2005). *See also, In the Matter of Michael Shaffery* (MSB, decided September 20, 2006). Additionally, there is no requirement under Civil Service law and rules requiring an appointing to explain why it chooses not to fill a previously occupied position.

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 7TH DAY OF FEBRUARY, 2024



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