



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Shianne Harichand,  
Department of Law and Public Safety

Administrative Appeal

CSC Docket No. 2016-3943

ISSUED: **OCT 21 2016** (HS)

The Department of Law and Public Safety requests that the provisions of *N.J.A.C.* 4A:4-1.1(c) be relaxed in order to allow Shianne Harichand to be provisionally appointed, pending promotional examination procedures, to the title of Secretarial Assistant 2 (Non-Stenographic).

By way of background, Harichand was appointed to the noncompetitive title of Clerk Typist, effective February 8, 2004. Subsequently, Harichand filed a classification appeal. The Division of Agency Services (Agency Services) conducted an audit of Harichand's position and found that the duties that she performed were consistent with the duties of a Secretarial Assistant 2 (Non-Stenographic), effective September 19, 2015.<sup>1</sup>

The appointing authority thereafter requested that Agency Services review Harichand's credentials to determine if she met the open competitive requirements for Secretarial Assistant 2 (Non-Stenographic). The requirement for Secretarial Assistant 2 (Non-Stenographic) is four years of experience in secretarial and administrative clerical work. Successful completion of a clerical training program with a minimum of 700 classroom training hours or 30 semester hour credits in secretarial science from an accredited college or university could be substituted for one year of the indicated experience. Course work must include typing skills, methods and procedures, and other courses may include office procedures, word

<sup>1</sup> As the change in title resulted in a change in category from the noncompetitive division to an unrelated above entry-level title, Harichand continues to serve in the title of Clerk Typist.

processing and business English. Agency Services indicated that although Harichand possessed 11 years and seven months of applicable experience, such experience would be considered out-of-title work.

Because the change in title would result in a change in category from the noncompetitive division to an unrelated above entry level title in the competitive division of the career service, the appointing authority seeks approval from the Civil Service Commission (Commission) to process this movement as a provisional appointment, pending promotional examination procedures. The appointing authority explains that due to business necessity, Harichand was assigned higher level out-of-title duties. Further, the appointing authority indicates that Harichand continues to perform out-of-title duties. Given the finding of the classification study and the fact that Agency Services determined that she possessed the necessary qualifications to establish eligibility, it maintains that a rule relaxation would permit the provisional appointment of Harichand to a title which properly classifies her responsibilities.

It is noted that primarily performing the duties of a Secretarial Assistant 2 (Non-Stenographic) would be considered out-of-title work for incumbents in the Clerk Typist title. Although there is an existing open-competitive list, there are no existing promotional or special reemployment lists for the title of Secretarial Assistant 2 (Non-Stenographic).

It is also noted that Agency Services supports the appointing authority's request.

## CONCLUSION

*N.J.A.C.* 4A:4-1.1(c) provides that the Commission may authorize the promotion, through promotional examination procedures, from the noncompetitive division, of permanent employees who meet the open competitive requirements, to: 1) a related entry level title in the competitive division or 2) in appropriate situations, to a related above-entry level title in the competitive division. *N.J.A.C.* 4A:4-2.5(d) provides:

When a promotion is to be made from the noncompetitive division to a related title in the competitive division, the examination shall be open to all permanent employees who meet one of the following:

1. Serving in the next lower or next two lower in-series noncompetitive titles and possessing the complete open competitive requirements;
2. Serving in all related noncompetitive titles and possessing the complete open competitive requirements;

3. All competitive division titles at specified class code levels below the announced title, with or without all or part of the open competitive requirements and all titles as described in (d)1 or 2 above;
4. Competitive division employees who meet complete open competitive requirements and all titles as described in (d)1 or 2 above; or
5. In extraordinary circumstances, the Commission may set another appropriate title scope.

*N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open competitive requirements may not use experience gained as a result of out-of-title work to satisfy eligibility requirements. Moreover, *N.J.A.C.* 4A:1-1.2(c) provides that the Commission may relax a rule for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

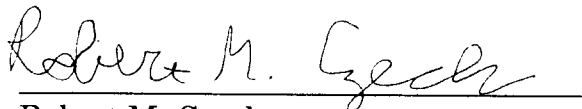
In the instant matter, the appointing authority is unable to appoint Harichand provisionally, pending promotional examination procedures, to the title of Secretarial Assistant 2 (Non-Stenographic), since it would constitute a movement from her underlying noncompetitive title of Clerk Typist to an unrelated above entry level title in the competitive division. Under the particular circumstances presented, the Commission finds that good cause has been presented to relax the provisions of *N.J.A.C.* 4A:4-1.1(c) and authorize the provisional appointment of Harichand to the title of Secretarial Assistant 2 (Non-Stenographic), pending promotional examination procedures. In this regard, there is no dispute that she meets the open competitive requirements for the title at issue, with the consideration of her out-of-title experience, as evidenced by the pre-appointment evaluation conducted by Agency Services. Moreover, the Commission emphasizes that her duties changed due to operational needs such that the primary focus of her position is now consistent with the title of Secretarial Assistant 2 (Non-Stenographic), and Agency Services' classification determination evidences this change. Accordingly, the Commission finds that good cause has been established in accordance with *N.J.A.C.* 4A:4-2.6(c) to accept Harichand's out-of-title work to qualify her for her promotional examination. Additionally, it is appropriate to relax the provisions of *N.J.A.C.* 4A:4-2.5(d) to announce a promotional examination for the title of Secretarial Assistant 2 (Non-Stenographic) in the appellant's unit scope to incumbents serving in the unrelated noncompetitive title of Clerk Typist, who meet the open competitive requirements, as well as to any other title scope deemed appropriate by Agency Services.

**ORDER**

Therefore, it is ordered that this request be granted and the appointing authority be permitted to appoint Shianne Harichand to the title of Secretarial Assistant 2 (Non-Stenographic) provisionally, pending promotional examination procedures, effective September 19, 2015. It is further ordered that a promotional examination be announced in accordance with this decision. Harichand is to provide a copy of this decision with her promotional application upon announcement of the examination. Moreover, it is ordered that the out-of-title work experience of Harichand be considered in qualifying her for the promotional examination and that the Division of Agency Services also accept applicable and documented out-of-title work experience from other applicants for that promotional examination.

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 19<sup>TH</sup> DAY OF OCTOBER, 2016



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