



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Carmen Perez-Rojas,
Supervising Family Service
Specialist 1 (PS8468K), Department
of Children and Families

CSC Docket No. 2016-1962

List Removal

ISSUED: NOV 29 2016 (LDH)

Carmen Perez-Rojas appeals the request of the Department of Children and Families to remove her name from the Supervising Family Service Specialist 1 (PS8468K), Department of Children and Families eligible list based on an unsatisfactory employment history.

By way of background, the subject eligible list of 509 names promulgated on December 19, 2013 and expires on December 18, 2016. The appellant's name appeared on the September 3, 2015 certification. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to an unsatisfactory employment history. In support, the appointing authority submitted an April 7, 2015 settlement agreement which stated that the appellant was suspended for 10 days on charges of incompetency, inefficiency or failure to perform; neglect of duty; and other sufficient cause. The details of the offense were that the appellant failed to follow departmental policy regarding physical abuse when a 10 month old was admitted with a severe injury to his leg.

On appeal to the Civil Service Commission (Commission), the appellant argues that removal was unwarranted as the suspension is the only blemish on her employment record. The appellant highlights that the offense was committed on March 23, 2013 and that she has not incurred any additional infractions. According to the appellant, she has received satisfactory performance reviews. In support, she submits, *inter alia*, her performance reviews.

In response the appointing authority argues that the appellant was removed from the subject eligible list based on her unsatisfactory employment record. The appointing authority reiterates that though the 10 day suspension was the result of a settlement agreement, it is undisputed that the appellant received a major disciplinary sanction. Further, the appointing authority points out that the offense occurred on March 25, 2013 while the appellant was serving in a supervisory title. Thus, it contends that a major discipline action while serving in a supervisory title was an appropriate reason to remove the appellant from the eligible list.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the Commission to remove an individual from an eligible list who has a prior employment history which relates adversely to the position sought. *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for an appointment. Further, *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

It is clearly within the appointing authority's discretion to consider a candidate's disciplinary record in determining whether to remove that candidate's name from an eligible list. See *In the Matter of John Bonafide*, Docket No. A-1658-04T1 (App. Div. February 7, 2006) (Removal from Sheriff's Officer Lieutenant promotional list upheld for Sheriff's Officer Sergeant who received a six-month suspension for misuse of public property three months prior to the certification of his name for appointment); *In the Matter of Howard Doherty, Correction Sergeant, Department of Corrections (PS7099I)*, Docket No. A-4959-01T1 (App. Div. April 5, 2004) (Removal from Correction Sergeant promotional list upheld for Senior Correction Officer with 25 minor disciplinary actions, 24 of which were imposed for attendance-related infractions); *In the Matter of Frank R. Jackson, Correction Lieutenant, Department of Corrections (PS6320I)*, Docket No. A-1617-00T2 (App. Div. March 28, 2002) (Removal from Correction Lieutenant promotional list upheld for Correction Sergeant whose disciplinary record included two official reprimands for absenteeism and a 30-day suspension for falsification of a report, despite the recommendation of his immediate supervisor); *In the Matter of Albert S. Waddington, County Correction Sergeant (PC0349T), Camden County*, Docket No. A-568-99T2 (App. Div. December 5, 2000) (Removal from County Correction Sergeant promotional list upheld for County Correction Officer with a lengthy list of counseling reports, poor evaluations, reprimands, minor disciplinary sanctions and two major disciplinary actions over approximately 13 years).

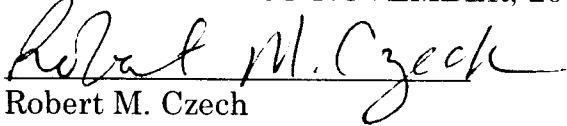
In the instant matter, the appellant's removal from the subject eligible list was warranted based on her unsatisfactory employment record. Although this is the appellant's lone offense, the Commission recognizes that the offense occurred only nine months before the promulgation of the list and while she was serving in a supervisory title. The facts of the underlying charges are also unsettling to the Commission. In this regard, the appellant failed to follow departmental policy regarding physical abuse when a 10 month old was admitted with a severe injury to his leg. Accordingly, under these circumstances, the appointing authority has demonstrated that the appellant's unsatisfactory employment history constituted sufficient cause to remove her name from the Supervising Family Service Specialist 1 (PS8468K), Department of Children and Families eligible list.

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 23RD DAY OF NOVEMBER, 2016



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