



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Tomasz
Petrykiewicz, Auditor 2, Taxation
(PS2369U), Department of the
Treasury

Administrative Appeal

CSC Docket No. 2017-2494

ISSUED: JUL 14 2017 (HS)

Tomasz Petrykiewicz requests a retroactive date of permanent appointment to the title of Auditor 2, Taxation.

By way of background, the appellant's name appeared on the eligible list for Auditor 2, Taxation (PS2369U), Department of the Treasury, which promulgated on April 4, 2013 and originally expired on April 3, 2016. On April 15, 2016, the Division of Agency Services (Agency Services) issued a classification determination finding that the most appropriate classification for the appellant's position was Auditor 2, Taxation, effective March 5, 2016. The appellant was provisionally appointed to the title, effective that same date. The appointing authority requested that the PS2369U eligible list be revived to effectuate the appellant's regular appointment. Agency Services revived and extended the list to June 30, 2016 as the Civil Service Commission (Commission) was without a quorum at the time. However, due to an oversight, the appointing authority did not act upon this revival and certify the list. Upon discovery of the oversight, the appointing authority again requested the same relief, which the Commission granted. *See In the Matter of Tomasz Petrykiewicz* (CSC, decided December 7, 2016). In that decision, the Commission found, among other things, that the appellant would be reachable for a regular appointment. The appellant received a regular appointment, effective January 25, 2017.

On appeal to the Commission, the appellant requests a retroactive date of permanent appointment to be made effective March 5, 2016, the effective date of the

reclassification of his position to Auditor 2, Taxation.¹ He argues that this relief is warranted due to the appointing authority's oversight in not acting upon the revival of the eligible list in June 2016.

The appellant also relies on the Commission's decision in *In the Matter of Salimah Scott Cobberrt* (CSC, decided February 8, 2017). In that case, it was noted that Cobberrt's name appeared on the PS2369U eligible list. Agency Services issued a classification determination reclassifying Cobberrt's position to Auditor 2, Taxation with an effective date of April 16, 2016. On appeal to the Commission, Cobberrt requested that April 2, 2016 be set as the date of reclassification and of permanent appointment to the title of Auditor 2, Taxation, contending that the appointing authority had not promptly handled her reclassification request and that she had been unquestionably performing duties consistent with the title of Auditor 2, Taxation. The appointing authority indicated that it had no objection to changing the effective date of reclassification but indicated no support for a retroactive date of permanent appointment. The Commission found that the appointing authority had promptly processed Cobberrt's reclassification request and that Agency Services had appropriately set the effective date of reclassification. However, because the reclassification request was filed prior to the original expiration date of the eligible list and the appointing authority indicated no objection to an earlier date of reclassification, the Commission granted the April 2, 2016 effective date of reclassification. Further, because this date fell within the life of the eligible list and because Cobberrt would have been reachable for appointment at that time, the Commission found good cause based on the unique circumstances of the case to revive the eligible list and issue a certification against Cobberrt's position. The Commission further ordered that if Cobberrt received a regular appointment, she would be given a retroactive date of permanent appointment effective April 2, 2016 upon successful completion of a current working test period.² The appellant maintains that the relief granted in *Cobberrt* supports the instant request. Specifically, he notes that his position was reclassified to Auditor 2, Taxation effective March 5, 2016, which was prior to the original expiration date of the PS2369U eligible list; he was reachable for a regular appointment; and he in fact received a regular appointment.

In response, the appointing authority states that, on June 23, 2016, it received notice that the PS2369U eligible list had been revived and extended to June 30, 2016. The appointing authority supports the appellant's request for a retroactive date of permanent appointment based on its oversight at that time. However, it states that since a certification would not have been requested or issued

¹ It is noted that the appellant also requests that the start of his working test period be made retroactive to March 5, 2016. However, the appointing authority has confirmed that the appellant successfully completed his working test period following his January 25, 2017 regular appointment.

² Agency records indicate that Cobberrt received a regular appointment to the title of Auditor 2, Taxation and is currently serving her working test period.

prior to June 23, 2016, the retroactive date of permanent appointment should be effective no earlier than that date.

CONCLUSION

N.J.S.A. 11A:4-6 and *N.J.A.C.* 4A:4-3.4 provide that an eligible list may be revived in order to implement a court order or decision of the Commission in the event of a successful appeal instituted during the life of a list, to correct an administrative error, or for other good cause. Additionally, *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.

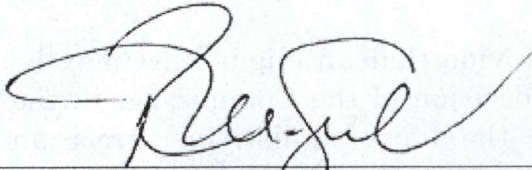
The appointing authority supports the appellant's request for a retroactive date of permanent appointment but disagrees as to the effective date. The record indicates that pursuant to Agency Services' April 15, 2016 determination, the appellant's position was reclassified to Auditor 2, Taxation, effective March 5, 2016. This effective date fell prior to the original expiration date of the PS2369U eligible list. The appellant would have been reachable for appointment at that time. See *Petrykiewicz, supra*. It also cannot be ignored that Cobbertt received a regular appointment to the title of Auditor 2, Taxation and, assuming successful completion of her working test period, will receive a retroactive date of permanent appointment to coincide with the effective date of the reclassification of her position. See *Cobberrt, supra*. As such, it is appropriate that the appellant be afforded similar relief. Therefore, good cause has been established to revive the PS2369U eligible list so that the appellant may receive a retroactive regular appointment to the title of Auditor 2, Taxation. Further, the appointing authority has confirmed that the appellant successfully completed his working test period following his January 25, 2017 regular appointment. Accordingly, the appellant's appointment is to be considered permanent. Additionally, good cause exists to provide the appellant with a retroactive date of appointment effective March 5, 2016, the effective date of reclassification. In so doing, the remedy provided herein is limited to the facts of this case and may not be used as precedent in any other matter.

ORDER

Therefore, it is ordered that this request be granted. It is further ordered that the Auditor 2, Taxation (PS2369U), Department of the Treasury eligible list be revived in order to record the appellant's permanent appointment. Moreover, it is ordered that he be given a retroactive date of permanent appointment effective March 5, 2016.

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 13TH DAY OF JULY, 2017



Robert M. Czedh, Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. Myers
Director
Division of Appeals and Regulatory Affairs
Written Record Appeals Unit
Civil Service Commission
P.O. Box 312
Trenton, New Jersey 08625-0312

- c. Tomasz Petrykiewicz
Douglas J. Ianni
Kelly Glenn
Records Center