

appointments of Bryson and three other certified eligibles. On May 3, 2017, five additional certifications, of which two were triggered by provisional appointments, were issued. These five additional certifications have not yet been disposed of. The eligible list expired on May 21, 2017.

On appeal to the Civil Service Commission (Commission), the appellant argues that the PS8544U eligible list should not have been extended since the appointing authority's request was not made until after the original expiration date of the eligible list and the extension of the eligible list changes the intent of reviving it for the limited purpose of appointing Bryson and other similarly situated employees. He questions whether there is authority to extend an eligible list at the same time it is revived. He argues that a new examination announcement should instead have been posted to ensure that he and other employees whose names were not on the eligible list would have had the opportunity to be considered for the May 3, 2017 vacancies. The appellant asserts that these other employees will otherwise be irreparably harmed as they will be disenfranchised from promotional opportunities for years to come. The appellant requests that the May 3, 2017 certifications be cancelled and a new examination process be initiated.

Agency records indicate that the appointing authority submitted a request for a new examination for Auditor 1, Taxation on May 12, 2017 and that there were four employees serving provisionally in the title on that date. Agency records also indicate that these four employees received classification determinations finding that the most appropriate classification for their respective positions was Auditor 1, Taxation with effective dates that fell after the original expiration date of the PS8544U eligible list. The resulting examination for Auditor 1, Taxation (PS5430U), Department of the Treasury was announced open with a closing date of July 21, 2017.

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 an eligible list, to correct an administrative error, or for other good cause. In addition, *N.J.S.A. 11A:4-6* and *N.J.A.C. 4A:4-3.3(b)1* provide that an eligible list may, for good cause, be extended prior to its expiration date, except no eligible list shall have a duration of more than four years. It is noted that the Commission is not prohibited from using these provisions in conjunction, including in cases where an appointing authority's request for relief is made after the expiration date of the eligible list, and it has a long history of doing so. See, e.g., *In the Matter of Correction Officer Recruit (S9988R)* (CSC, decided January 18, 2017).

In this matter, the record establishes that in light of Agency Services' June 3, 2016 determination, at least one vacancy for Auditor 1, Taxation existed prior to the expiration of the PS8544U eligible list that the appointing authority indicated it sought to fill on a current basis. There was no active promotional eligible list and no promotional examination announcement was pending. Under these circumstances, there was good cause to revive and extend the eligible list for an additional year beyond the original expiration date or until a new eligible list was issued, whichever occurred first. In the absence of such extension, vacancies would have to be filled through provisional appointments, which are disfavored. *See, e.g., In the Matter of Secretarial Assistant 2, Non-Stenographic (PS6093K)* (CSC, decided June 7, 2017). By extending the eligible list, fully-qualified candidates rather than untested provisional employees could be appointed. While the appellant contends that the eligible list should only have been revived without extension for the limited purpose of appointing Bryson and other similarly situated employees, such action is generally taken in cases involving, for example, a Commission-level decision that grants an appeal instituted during the life of an eligible list or a court order that enforces a settlement agreement. *See, e.g., In the Matter of Cynthia Pomaes* (CSC, decided June 7, 2017); *In the Matter of Mark Williams* (MSB, decided April 21, 2004). Such action may generally also be taken to correct an administrative error or where an appointing authority seeks to fill a vacancy on a retroactive basis. *See, e.g., In the Matter of Denise Harper* (CSC, decided November 23, 2016); *In the Matter of Cynthia Stubbs* (CSC, decided September 2, 2015). Accordingly, since the PS8544U eligible list was appropriately revived and extended, the appointing authority could use it to make appointments and cancellation of the pending certifications is unwarranted.

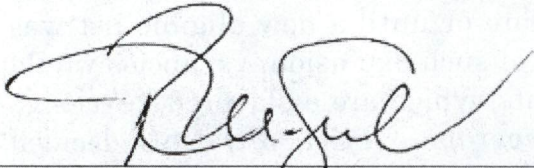
Finally, the Commission is not persuaded by the appellant's contention that employees whose names are not on the PS8544U eligible list will be irreparably harmed if the pending certifications are not cancelled and a new promotional examination is not announced. While the appointing authority was not precluded from requesting the announcement of a new promotional examination, an employee does not possess a vested right to a promotion, even if the employee's name appears on an eligible list. *See In re Crowley*, 193 N.J. Super. 197 (App. Div. 1984); *Schroder v. Kiss*, 74 N.J. Super. 229 (App. Div. 1962). Nevertheless, it is noted that a promotional examination for Auditor 1, Taxation (PS5430U), Department of the Treasury was announced with a closing date of July 21, 2017.

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 13TH DAY OF JULY, 2017



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