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STATE OF NEW JERSEY

In the Matter of Brooke Tumillo,
Division of State Police

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-3253

Request for Administrative Relief

ISSUED: **AUG 03 2015** (SLK)

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 Brooke Tumillo to be provisionally appointed, pending promotional examination procedures, to the competitive title of Personnel Aide 2.

By way of background, Ms. Tumillo is currently permanent in the non-competitive title of Data Entry Operator 1. As a result of a classification review of her position, the former Division of Classification and Personnel Management¹ determined that the duties and responsibilities of Ms. Tumillo's position would be appropriately classified by the competitive title of Personnel Aide 2 effective February 9, 2013. Thereafter, the appointing authority requested that the Division of Agency Services (Agency Services) review Ms. Tumillo's credentials to determine if she met the open competitive requirements for Personnel Aide 2. In its April 29, 2015 decision, Agency Services determined that Ms. Tumillo did not meet the requirements because her experience was out-of-title work. However, it commented that if the Civil Service Commission (Commission) approved her out-of-title experience, Ms. Tumillo would meet the requirements. Further, since her permanent title of Data Entry Operator 1 is in the non-competitive division, an appointment to Personnel Aide 2 would have to be recorded as provisional, pending open competitive examination procedures. Additionally, the movement would constitute a promotion from the non-competitive division to an unrelated, above entry level title in the competitive division.

¹ Now Agency Services.

In support of the instant request, the appointing authority presents that when Ms. Tumillo was reassigned to the Division's Human Resources Section on September 6, 2011, she assumed new duties and her position was ultimately reclassified as Personnel Aide 2. The appointing authority indicates that Ms. Tumillo continues to perform these duties and has assumed additional duties which include performing complex tasks and lead worker responsibilities. The appointing authority explains that Ms. Tumillo was assigned out-of-title duties due to operational necessity, compounded by recent retirements and the continued hiring freeze.

It is noted that there are no special reemployment, promotional or regular reemployment lists in Ms. Tumillo's unit scope for the Personnel Aide 2 title. Additionally, there are no other permanent Data Entry Operator 1s currently serving in the subject unit scope. Further, there are two individuals, Leslie Murphy and Madeline Rivera, currently serving in the subject unit scope in the title Senior Clerk Typist.

N.J.A.C. 4A:4-1.1(c) provides that a promotion may be authorized through promotional examination procedures from the non-competitive 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) states that when a promotion is to be made from the non-competitive division of the career service to a related title in the competitive division of the career service, 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 non-competitive titles and possessing the complete open competitive requirements; or
2. Serving in all related non-competitive titles and possessing the complete open competitive requirements.

N.J.A.C. 4A:4-2.5(d)5 states that in extraordinary circumstances, another appropriate title scope may be set.

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 the requirements for admittance to the examination or for credit in the examination process.

Finally, *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

CONCLUSION

In the present matter, it is appropriate to relax the provisions of *N.J.A.C.* 4A:4-1.1(c) in order to allow Ms. Tumillo to be provisionally appointed, pending promotional examination procedures, to the competitive title of Personnel Aide 2, with an effective date of February 9, 2013. The classification review determined that Ms. Tumillo's position would be appropriately classified as Personnel Aide 2 and there are no current special reemployment, promotional, or regular reemployment lists in her unit scope for the subject title. As a result of such an appointment, it is also appropriate to relax the provisions of *N.J.A.C.* 4A:4-2.5(d) to announce the promotional examination to incumbents serving in the unrelated non-competitive title of Data Entry Operator 1 who demonstrate that they meet the complete open competitive requirements. It is also ordered that any promotional announcement issued for Personnel Aide 2 in Ms. Tumillo's unit scope be announced open to competitive division employees who meet the complete open competitive requirements and any title scope deemed appropriate by Agency Services.

ORDER

Therefore, it is ordered that this request be granted and Ms. Tumillo be provisionally appointed Personnel Aide 2, pending promotional examination procedures, effective February 9, 2013. Additionally, Ms. Tumillo's applicable out-of-title experience shall be accepted on a year-for-year basis for a prospective promotional examination for the subject title. Ms. Tumillo is to provide a copy of this decision with the promotional application that she submits upon examination announcement. In addition, the Division of Agency Services shall also accept applicable and documented out-of-title work experience from other promotional examination applicants.

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 29th DAY OF JULY, 2015**



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