

B-42



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Thomasina DeLeon-
Jestus, Human Services Technician
(PS7399K), Ancora Psychiatric
Hospital

Administrative Appeal

CSC Docket No. 2015-2783

ISSUED: **AUG 03 2015**

(LDH)

Thomasina DeLeon-Jestus, requests additional relief regarding her removal from the Human Services Technician (PS7399K), Ancora Psychiatric Hospital eligible list.

By way of background, the appellant's name appeared on the eligible list for Human Services Technician (PS7399K), which promulgated on September 30, 2010 and expired on September 29, 2014. The appellant's name was certified to the appointing authority on September 26, 2013. Certification Notices ("Notice") dated October 3, 2013 were sent to the eligibles with instructions to notify the appointing authority in writing, within five business days as to whether or not the individual was interested in the position. The Notice also stated that failure to follow the instructions would result in the removal of the eligible's name from the list. In disposing of the certification, the appointing authority requested the removal of the appellant's name due to her failure to respond to the Notice. The appellant appealed to DAS, which found that the appointing authority had not presented a sufficient reason to remove the appellant's name from the subject eligible list. However, DAS could not restore her name to the subject eligible list as the list had expired. Subsequently, the appellant appealed to the Civil Service Commission (Commission).

On appeal to the Civil Service Commission, the appellant reiterates her interest in the subject position. In support, she submits letters addressed to the

appointing authority dated April 15, 2014 and August 25, 2013 stating her interest in the subject title and a notarized letter stating that she had not received the certification notice until after the deadline.

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 Civil Service 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.

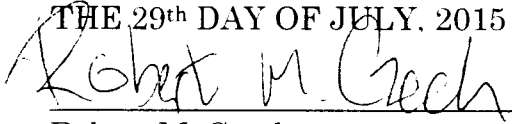
In the instant matter, the Commission finds that the appellant is entitled to additional relief. In this regard, DAS's decision was not rendered until March 20, 2015, after the subject eligible list expired. Although it found that the appellant met her burden of proof, in that the removal of her name was inappropriate, DAS could not restore her name to the subject eligible list because it had expired. In order for the appellant to receive a meaningful remedy, the Commission orders that the appellant's name be restored to the Human Services Technician (PS7399K), Ancora Psychiatric Hospital eligible list and that the list be revived in order that the appellant may be considered for prospective employment opportunities. *See e.g., In the Matter of Alexander Torres* (CSC, decided January 14, 2009); *In the Matter of Annette C. Jones* (MSB, decided November 15, 2006); and *In the Matter of Jeffrey Swan* (MSB, decided May 19, 2004). It must be emphasized that the appellant does not possess a vested property interest in a position. The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990). Thus, the foregoing provides an equitable remedy in this matter.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's name be restored to the Human Services Technician (PS7399K), Ancora Psychiatric Hospital, eligible list. It is further ordered that the subject eligible list be revived in order for the appellant's name to be certified at the time of the next certification for Human Services Technician, Ancora Psychiatric Hospital, for prospective employment opportunities only.

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



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c: Thomasina DeLeon-Justus
Alfred Filippini
Kenneth Connolly
Joseph Gambino



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AGENCY SERVICES
P. O. Box 313
Trenton, New Jersey 08625-0313

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

March 20, 2015

Thomasina DeLeon Jestus

Title: Human Services Technician
Symbol: PS7399K
Jurisdiction: Ancora Psychiatric Hospital
Certification Number: PS131469
Certification Date: 9/26/2013

Initial Determination: Removal – No Response to Certification Notice

This is in response to your correspondence contesting the removal of your name from the above-referenced eligible list.

The Appointing Authority requested removal of your name in accordance with N.J.A.C. 4A:4-4.7(a) 6, which permits the removal of an eligible candidate's name from the eligible list for non-compliance with instructions listed on the Notice of Certification.

After a thorough review of our records and all the relevant material submitted, we find that there is a sufficient basis to restore your name to the eligible list. Therefore, the Appointing Authority's request to remove your name would have been overturned and your appeal granted. However, your name cannot be restored to PS7399K for future certifications due to the fact the eligible list expired on 9/29/2014.

Please be advised that in accordance with Civil Service Rules, the Appointing Authority may appeal this decision to the Division of Appeals & Regulatory Affairs (DARA) within 20 days of the receipt of this letter. You must submit all proofs, arguments and issues which you plan to use to substantiate the issues raised in your appeal. Please submit a copy of this determination with your appeal to DARA. You must put all parties of interest on notice of your appeal and provide them with copies of all documents submitted for consideration.

Please be advised that pursuant to P.L. 2010 c.26, effective July 1, 2010, there shall be a \$20 fee for appeals. Please include the required \$20 fee with your appeal. Payment must be made by check or money order only, payable to the NJ CSC. Persons receiving public assistance pursuant to P.L. 1947, c. 156 (C.44:8-107 et seq.), P.L. 1973, c.256 (C.44:7-85 et seq.), or P.L. 1997, c.38 (C.44:10-55 et seq.) and individuals with established veterans preference as defined by N.J.S.A. 11A:5-1 et seq. are exempt from these fees.

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www.state.nj.us/csc

Address all appeals to:

Henry Maurer, Director
Division of Appeals & Regulatory Affairs
Written Record Appeals Unit
PO Box 312
Trenton, NJ 08625-0312

Sincerely,



Tonjua Wilson
Human Resource Consultant
State Certification Unit

For Joe M. Hill Jr. Assistant Director
AGENCY SERVICES

c: Alfred Filippini
File

