



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Caroline Jones,
Department of Human Services

Administrative Appeal

CSC Docket No. 2020-1235

ISSUED: APRIL 17, 2020 (SLD)

Caroline Jones petitions the Civil Service Commission (Commission) for enforcement of the attached decision rendered on June 26, 2019, wherein the Commission ordered that the petitioner’s salary be reconstructed and differential back pay be remitted.

By way of background, the petitioner, a former Auditor 1,¹ Department of Human Services, appealed the denial of an anniversary date increment in 2016 when she was serving in the Auditor Accountant Trainee title with the Department of Health. Specifically, she asserted, among other arguments, that the current negotiated agreement provided for retroactive anniversary date increases beginning on or about July 11, 2015. Therefore, the petitioner maintained that she was entitled to a retroactive anniversary date increment effective April 2, 2016, while she was an Auditor Accountant Trainee. In the alternative, the petitioner argued that she was entitled to differential pay for the step she should have received while she was serving as an Auditor Accountant Trainee upon her advancement to the title of Auditor 1. In its prior decision, the Commission noted that since *N.J.A.C. 4A:3-4.14(a)* provides in relevant part, that upon appointment to a trainee title, an employee’s salary in his or her prior title may be retained, or “red-circled,” the petitioner was not entitled to any increases during the trainee period. However, the Commission noted that since *N.J.A.C. 4A:3-4.14(a)* also requires that the employee’s salary be “reconstructed,” **as if the employee had continued in their**

¹ Agency records indicate that the petitioner was transferred from the Department of Health to the Department of Human Services and resigned in good standing, effective September 24, 2018.

permanent title, any ATB increases and/or anniversary date increments must be factored into the petitioner's salary prior to determining what her salary should be upon her movement to the primary title. Once the salary was reconstructed, then the move from the previously held title to the new primary title must be considered, and the appropriate rule applied for such movement. For example, if the movement from the previously held title to the new primary title would be considered a promotion, then *N.J.A.C.* 4A:3-4.9 would be applied and if the movement would be considered a demotion, then *N.J.A.C.* 4A:3-4.10 would be applied. The Commission stated that to do otherwise would be to improperly complete the "restructuring" of an employee's salary under *N.J.A.C.* 4A:3-4.14(a). Consequently, the Commission ordered that the petitioner's salary should be recalculated consistent with its decision and she be provided with differential pay from October 29, 2016 to September 24, 2018.

In the instant petition, the petitioner maintains that she has not received the differential back pay award.

Despite an opportunity to do so, the Department of Human Services has not submitted any response. The Department of Health has stated that the petitioner is not "with" the Department of Health.

CONCLUSION

In the instant matter, the petitioner requests that the Commission order the Department of Human Services and/or the Department of Health to reconstruct her salary pursuant to its June 26, 2018 decision and immediately remit the differential back pay. The Commission notes that neither the Department of Human Services nor the Department of Health, despite several opportunities, have submitted any substantive arguments or explanations in this matter. Rather, the Department of Health has merely stated that the petitioner is not currently "with" the Department of Health. However, it is irrelevant that the petitioner is not currently employed by either the Department of Health or the Department of Human Services. What matters is that during the time period at issue, the petitioner was employed by both Department of Human Services and Department of Health. Therefore, one or both are responsible for reconstructing the petitioner's salary and remitting the appropriate amount of differential pay.

The Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *N.J.S.A.* 11A:10-3; *N.J.A.C.* 4A:10-2.1(a)2. See *In the Matter of Fiscal Analyst (M1351H)*, Newark, Docket No. A-4347-87T3 (App. Div. February 2, 1989). Therefore, the Department of Human Services and the Department of Health are ordered to remit payment to

the petitioner within 10 days of the issuance of this decision. If neither the Department of Human Services nor the Department of Health remits payment within 10 days of the issuance of this decision, **both** shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000. Moreover, given their noncompliance, it is appropriate to assess both the Department of Human Services and the Department of Health compliance costs of \$1,000 each, to be remitted within 30 days of the issuance of this matter.

ORDER

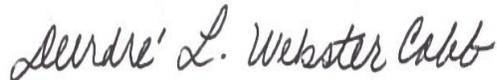
Therefore, it is ordered that the Department of Human Services and the Department of Health reconstruct Caroline Jones' salary and remit the differential back pay within 10 days of the issuance of this decision.

Moreover, the Commission orders that the costs incurred by this agency in the compliance process be assessed against the Department of Human Services and the Department of Health, in the amount of \$1,000 **each**, pursuant to *N.J.S.A.* 11A:10-3 and *N.J.A.C.* 4A:10-3.2(a)5, be remitted within 30 days of the issuance of this order.

If, at any time, the appointing authorities do not adhere to the timeframes indicated above, without an approved extension of time, the Department of Human Services and the Department of Health shall **both** be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

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 15TH DAY OF APRIL, 2020



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Caroline Jones
Lori Mattozzi
Loreta Sepulveda
Kelly Glenn
Records Center



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Caroline Jones,
Department of Human Services

Administrative Appeal

CSC Docket No. 2019-407

ISSUED: June 28, 2019 (SLD)

Caroline Jones, a former Auditor 1,¹ Department of Human Services, appeals the denial of an anniversary date increment in 2016 when she was serving in the title of Auditor Accountant Trainee.

By way of background, the appellant was appointed to the unclassified title of Administrative Analyst 4 with the Division of Criminal Justice, Department of Law and Public Safety, effective November 17, 2012. Thereafter, she was appointed to the title of Auditor Accountant Trainee with the Department of Human Services, effective October 17, 2015. Her previous salary was retained and “red circled” at \$51,419.79 (step 3, salary range P19) pursuant to *N.J.A.C.* 4A:3-4.14(a). Upon her advancement to the title of Auditor 1, she was placed on step three of salary range P20 (\$53,796.47), effective October 29, 2016.² Thereafter, the appellant was transferred to the Department of Health, effective September 30, 2017. It is noted that the appellant received across the board (ATB)³ increases effective August 19, 2017 and July 7, 2018.

On appeal, the appellant argues that she is entitled to a retroactive anniversary date increment during the time period she was serving in the title of Auditor Accountant Trainee. Specifically, she asserts, among other arguments, that

¹ Agency records indicate that the appellant was transferred from the Department of Health to the Department of Human Services and resigned in good standing, effective September 24, 2018.

² It is noted that her salary was corrected to reflect step three in January 2017.

³ The current Communication Workers of America (CWA) negotiated agreement provides for several retroactive ATB increases, including those referenced in this matter.

the current CWA negotiated agreement provided for retroactive anniversary date increases beginning on or about July 11, 2015. Therefore, the appellant argues that she is entitled to a retroactive anniversary date increment effective April 2, 2016, while she was an Auditor Accountant Trainee. In the alternative, the appellant argues that she is entitled to differential pay for the step she should have received while she was serving as an Auditor Accountant Trainee upon her advancement to the title of Auditor 1.

CONCLUSION

N.J.A.C. 4A:3-4.14(a) provides, in pertinent part that:

. . . an employee with permanent status or with at least six months' continuous service may, at the option of the appointing authority, retain his or her current salary when appointed to a trainee title. The employee shall remain at his or her salary until the salary rate of the trainee title exceeds the employee's salary, the employee advances to the primary title after completing the training period, or the employee is advanced to a higher title. Upon advancement from the trainee title to the primary title, the employee's salary shall be determined by reconstructing the employee's salary as if the employee had continued to serve in his or her permanent title during the training period or by the normal advancement from a trainee to a primary title, whichever is greater.

In the instant matter, it is noted that the 2018 CWA negotiated agreement provides for retroactive ATB increases and anniversary date increments, one of which occurred in the appellant's case during her trainee period. For reasons that are unclear in the record, in reconstructing the salary of the appellant upon the implementation of the current agreement, she was not provided with the anniversary date increment upon her advancement from the trainee title to the primary title. As indicated above, *N.J.A.C.* 4A:3-4.14(a) provides in relevant part, that upon appointment to the trainee title, that an employee's salary in his or her prior title may be retained, or "red-circled." Therefore, during the trainee period, the appellant would not be entitled to any increases, either due to an ATB increase or anniversary date increment. However, *N.J.A.C.* 4A:3-4.14(a) also provides that upon the advancement from the trainee title to the primary title, the employee's salary "shall be determined by reconstructing the employee's salary as if the employee had continued to serve in his or her permanent title during the training period." Therefore, as the rule requires that the employee's salary be "reconstructed," and in this matter, **as if the employee had continued in their permanent title**, any ATB increases and/or anniversary date increments must be factored into the appellant's salary prior to determining what her salary should be upon her movement to the primary title. Once the salary is reconstructed, then the

move from the previously held title to the new primary title must be considered, and the appropriate rule applied for such movement. For example, if the movement from the previously held title to the new primary title would be considered a promotion, then *N.J.A.C.* 4A:3-4.9 would be applied and if the movement would be considered a demotion, then *N.J.A.C.* 4A:3-4.10 would be applied. To do otherwise would be to improperly complete the “restructuring” of an employee’s salary under *N.J.A.C.* 4A:3-4.14(a).

In the instant matter, as the current agreement provides for retroactive anniversary date increments and ATB increases from July 11, 2015, the appellant’s salary had been corrected to reflect the ATB and anniversary date increments she would have been entitled to after her appointment to the Auditor 1 title. However, the calculation of her salary from the Auditor Accountant Trainee title to the Auditor 1 title was not reconstructed to include the anniversary date increment she would have received if she continued to serve in her prior title. Therefore, based on the foregoing, the appellant’s salary should be recalculated consistent with this decision and the differential pay from October 29, 2016 to September 24, 2018 be remitted.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant’s salary be reconstructed and differential pay be remitted.

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 26TH DAY OF JUNE, 2018

Deirdre' L. Webster Cobb

Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Caroline Jones
Lori Mattozzi
Loreta Sepulveda
Kelly Glenn
Records Center