



STATE OF NEW JERSEY

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

In the Matter of Charles McGovern,
Department of the Treasury

Classification Appeal

CSC Docket No. 2020-902

ISSUED: JUNE 19, 2020 (HS)

Charles McGovern appeals the determination of the Division of Agency Services (Agency Services) that his position with the Department of the Treasury was properly classified as a Special Agent 2.

The record in the present matter establishes that at the time of the pertinent request for a classification review, the appellant was serving permanently in the title of Special Agent 2. His position was located in the Division of Taxation, Office of the Director, Office of Criminal Investigation/Internal Security Administration (OCI). Agency Services received the request on April 2, 2019 and reviewed the appellant’s Position Classification Questionnaire (PCQ), organizational charts, documentation from the Electronic Performance Assessment Review (ePAR) system and other materials submitted in conjunction with the classification review request. On the March 15, 2019 PCQ, the appellant stated, among other things, that he was the supervisor to the Motor Fuels Unit and that he completed ePARs for three subordinates.. The appellant’s supervisor, a Supervising Special Agent, stated that the appellant:

has taken on the tremendous task of renewing an OCI Motor Fuels Unit. His leadership and dedication [to] the program has made it a success. [The appellant] provides direction to his staff on how to perform inspections, audits and complex cases that span multi-jurisdictions.

She noted “the ability to multi-task and have a wide range of experience to supervise in the field and the office;” “the ability to supervise inspections, search warrants,

surveillance and arrests;” and “to have knowledge to train agents in handling specialized equipment as well [as] training agents on IRS requirements” among the most important duties of the position. She further noted that in the position, “it [was] necessary to have a high level of law enforcement expertise especially in environments in which it can be threatening to law enforcement personnel.” The appellant’s supervisor and program manager both agreed with the appellant’s description of his duties and the proposed Special Agent 1 classification. The ePAR documentation indicated that the appellant was the rater for an Investigator 2, Taxation and a Special Agent 3. Agency Services, in its September 2019 determination, found that the appellant’s assigned duties and responsibilities were commensurate with the title of Special Agent 2.

On appeal to the Civil Service Commission (Commission), the appellant maintains that reclassification of his position to Special Agent 1 was warranted.¹

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for Special Agent 1 states:

Under direction of the Supervising Special Agent, or other supervisory official in the Department of the Treasury, conducts and/or assists in the supervision of intra and interstate investigation functions related to criminal and civil violations of New Jersey tax laws; recommends and initiates legal proceedings against violators, and assists in the preparation of legal documentation and presentment of evidence for the prosecution in criminal and civil proceedings; does other related work.

The definition section of the job specification for Special Agent 2 states:

Under the direction of a Supervising Special Agent, or other supervisory official in the Department of the Treasury, conducts intra and interstate investigation functions related to criminal and civil violations of New Jersey tax laws administrated by the Division of Taxation; recommends and initiates legal proceedings against violators and assists in the preparation of legal documentation and presentment of evidence for the prosecution in criminal and civil proceedings; does other related work.

¹ It is noted that the appellant did later receive a provisional appointment to the title of Special Agent 1, effective November 9, 2019, and a regular appointment to the same title, effective March 3, 2020.

Initially, it is noted that the Special Agent 1 title is a first-level supervisory title, and supervisory experience includes responsibility for seeing that tasks assigned to subordinates are efficiently accomplished. It involves independent assignment and distribution of work to employees, with oral or written task instructions, and maintenance of the flow and quality of work within a unit in order to ensure timely and effective fulfillment of objectives. Supervisors are responsible for making available or obtaining materials, supplies, equipment, and/or plans necessary for particular tasks. They provide on-the-job training to subordinates when needed, and make employee evaluations based on their own judgment. They have the authority to recommend hiring, firing, and disciplining employees. *See In the Matter of Julie Petix* (MSB, decided January 12, 2005). *See also, In the Matter of Susan Simon and William Gardiner* (Commissioner of Personnel, decided September 10, 1997). Moreover, the Commission has determined that the *essential component* of supervision is the responsibility for the administration of performance evaluations for subordinate staff. *See In the Matter of Timothy Teel* (MSB, decided November 16, 2001). The individual rating performances is the supervisor.

The supervision of three employees is the requirement for a position to be considered a first-level supervisor. However, an exception can be made if, due to the size of a work unit, there is a need for fewer than three employees in the unit, but supervision of those employees is necessary. In this matter, the record supports that the appellant was tasked with leadership of his assigned work unit and supervision of two employees, an Investigator 2, Taxation and a Special Agent 3, as evidenced by his role as their rater in the ePAR system. In addition, the statements of the appellant's supervisor highlight the importance of supervision and training and the sometimes-threatening environments law enforcement personnel face. The Commission is satisfied that these statements speak to a need for supervision. Thus, there is a sufficient basis in this particular case to grant the appellant's requested relief.

N.J.A.C. 4A:3-3.9(e)3i states that the effective date of a position reclassification shall be the pay period immediately after 14 days from the date an appropriate Commission representative received the appeal or reclassification request, or at such earlier date as directed by the Commission. As Agency Services received the appellant's request on April 2, 2019, the appropriate effective date of reclassification is April 27, 2019.

ORDER

Therefore, it is ordered that this appeal be granted and the position of Charles McGovern be reclassified to Special Agent 1 with an effective date of April 27, 2019.

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
17TH DAY OF JUNE, 2020



Deirdré L. Webster Cobb
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. Charles McGovern
Douglas Ianni
Division of Agency Services
Records Center