

State of New Hampshire

88-0-111

PERSONNEL APPEALS BOARD



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PERSONNEL APPEALS BOARD

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APPEAL OF STUART LAVALLEY

May 26, 1988

On March 14, 1988, the Promotional Appeals Tribunal consisting of Chairman George Cushman and members Joan Day, Human Resources Coordinator (Department of Employment Security) and George Liouzis, Human Resources Coordinator (N.H. Liquor Commission), heard the appeal of Stuart LaValley, an employee of the Department of Safety. Mr. LaValley, who was represented at the hearing by SEA Field Representative Jean Chellis, was appealing his non-selection to the position of Pupil Transportation Safety Supervisor. Edwin J. Goodrich, Human Resources Coordinator for the Department of Safety, and Robert K. Turner, Director of Motor Vehicles, represented the State.

The State Employees' Association submitted Exhibits A through F on behalf of the appellant. The first three of those exhibits related to development of policy and rule under which probationary or part-time and seasonal employees could apply for promotion, as defined under the current rule Per-302.03(3) Promotion from Within a Department or Agency: "While probationary and part-time employees not having six months service within a one-year period can respond to a departmental posting, preference in selection must be given to permanent employees."

Ms. Chellis indicated that Mr. LaValley, currently a Licensing Officer for the Department of Safety, had been a permanent employee since 1970, while the applicant selected for the position had been with the State since September 14, 1987. She argued that Mr. LaValley should have been the successful candidate for promotion to the vacancy based upon his permanent status, longevity with the State, and experience relative to the position in question.

Mr. Goodrich testified that there had been six applicants for the vacancy. Five of the candidates were certified as meeting the minimum qualifications for promotion. Of those candidates, four were employees with permanent status.

Mr. Turner testified that each of the five candidates were asked the same series of eight questions. Based upon the answers given, the candidates were then rated on six factors including personality, ability to deal with people, the public, etc. The weighting on the applicant scores was derived from a combination of the information on the application for employment and oral interview scores. The selected candidate received a score of 74 points, Mr. LaValley scored a 63. Mr. Turner indicated that there is no passing or failing score.

Mr. LaValley contended that his past experience was not accorded sufficient weight during the scoring process. He argued that his experience in the Department of Safety, as well as volunteer work with the Fish and Game Commission, should have proven him qualified for the position. While he admitted that his application may not have fully described the breadth of his experience, he expected an opportunity to elaborate during the interview.

After reviewing the testimony and evidence received, the Tribunal voted to uphold the decision of the Department of Safety. In reaching that decision, the Tribunal made the following findings.

Per 302.03(b)(1) states, "It is the prerogative of the appointing authority to give such weight to an employee's job performance as he deems appropriate when considering the employee for appointment to a vacancy." Further, Per 302.03(b)(2) provides, "If the appointing authority finds certain professional and personal qualifications lacking in even ostensibly qualified candidates for promotion, employees may be denied promotion." While Mr. LaValley was certified as meeting the minimum qualifications for consideration in his application for promotion to the position of Pupil Transportation Safety Supervisor, the Department of Safety did not find him to be a suitable candidate for the vacancy. Further, the appellant had the same opportunity as the other candidates to explain his background during the selection process since all candidates were asked to complete the same standardized application, and were given the same questions to answer during the oral interview.

Based upon the foregoing, the Tribunal voted to deny Mr. LaValley's appeal. The Tribunal also voted, however, to make a strong recommendation to the Department of Safety that future oral interviews be designed to allow the candidates to more fully demonstrate knowledge, skills and abilities. Questions such as "Are you currently employed? If so, who is your employer? If selected for this position, when would you be able to start working?" are not questions which lend themselves to an objective evaluation of an employee's personality, experience in dealing with the public, or general ability to deal with people. Questions such as current employment are covered on the application for employment. The interview should be more fully utilized in determining a candidate's capacity for selection to the vacancy.

FOR THE PROMOTIONAL APPEALS TRIBUNAL

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N.H. Personnel Appeals Board

cc: Jean Chellis, SEA Field Representative

Edwin J. Goodrich, Human Resources Coordinator
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Robert K. Turner, Director
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