

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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### **APPEAL OF SUSAN LOVEGREEN** **DEPARTMENT OF HEALTH AND HUMAN SERVICES** **Docket # 2003-P-005**

February 10, 2004

The New Hampshire Personnel Appeals Board (Wood, Johnson, and Urban) met on Wednesday, October 1, 2003, under the authority of RSA 21-1:58, I, to hear the appeal of Susan Lovegreen, an employee of the Department of Health and Human Services. Ms. Lovegreen, who was represented at the hearing by SEA Field Representative John Andersch, Jr., was appealing the Department's decision not to select her for promotion from Technical Support Specialist I to Technical Support Specialist II. Attorney John Martin and Ms. Karen Hutchins, Human Resources Administrator for the Department of Health and Human Services, appeared on behalf of the Agency.

Without objection by either party, the appeal was heard on oral argument and offers of proof by the representatives of the parties. The record of the hearing in this matter consists of the pleadings submitted by the parties prior to the hearing, the audio tape recording of the hearing on the merits of the appeal, and the offers of proof presented by the parties. Prior to beginning the presentation, the State withdrew its evidence that it proposed to admit and the withdrawal of that evidence was done without objection.

Mr. Martin began the presentation by explaining that Ms. Juliette Fister was the appointing authority. She is the IT Manager II for the Agency. Ms. Lovegreen currently is a Technical Support Specialist I and applied for the position of Technical Support Specialist II. There were five internal employees who applied. An interview board consisting of Susan Clark, Marie Ott, and Juliette Fister was established to review the applications. Ms. Ott was Ms. Lovegreen's supervisor. The application process and interviews consisted of questions plus review of skills. The interview board believed that none of the internal applicants had the necessary skills.

Approximately two months after the review of the internal applications, Ms. Ott applied for the position. This would have been a reduction in her responsibilities and a

reduction in her position. She expressed a desire to be removed from supervisory responsibilities. At the time Ms. Ott applied, external advertising had been commenced for the position.

Mr. Martin also offered information that the interview conducted with Ms. Lovegreen was weak and showed a lack of thoroughness on her part to answer questions concerning matters such as back-up, setting up a PC, problem solving, and a weakness in dynamics. Specifically with regard to the last item ; there was a feeling that Ms. Lovegreen tended to blame others for her shortcomings or inability to accomplish things.

In the offer of proof, it was explained that Ms. Juliette Fister was disappointed in Ms. Lovegreen's knowledge of the existing network. She felt there was a lack of thoroughness in her presentation at the interview board that showed to the board that Ms. Lovegreen was skipping steps. For example, the interview board felt she showed she could evaluate existing information, research, the administrative processes, and documentation, but she did not seem to be connecting between the different items; thus showing a lack of understanding of the bigger picture.

There was also a discussion about a joint project that was proposed as part of the interview board review discussion. Comments from the interview board indicated that Ms. Lovegreen appeared to approach it separately in discussing the concept with little planning ahead, no reviewing of the skills needed and limited working together experience.

There was also concern about Ms. Lovegreen's relations with her "customers." The supervisor felt she had gone a bit too far in discussing networking issues with people for whom she was attempting to resolve problems. She also thought that in Ms. Lovegreen's explanations she missed steps in the process relating to setting up the PC in that she forgot to deal with setting up the printer.

Mr. Martin also indicated that the supervisor was somewhat aware of challenges Ms. Lovegreen had had in prior positions and had talked with other supervisory peers regarding issues with Ms. Lovegreen.

According to the Agency, the interview board believed Ms. Lovegreen was weak in independent work ability. It was an impression and understanding of how Ms. Lovegreen worked that she stayed within the process and did not try to look beyond the immediate needs. At the same time, there also appeared to be difficulty staying within the process; as an example, it was explained that in one instance Ms. Lovegreen had installed an item of software that was specifically on hold and was not to have been installed at that time.

There were also questions concerning her technical skills, even after prior training. The Agency certainly believes that Ms. Lovegreen can learn the skills, but did not have them at the time of the interview. There were also instances in which prior experience seemed to indicate that Ms. Lovegreen could not deal with some of the issues that might arise in this new position. For example, there was one instance where Ms. Lovegreen could not find out if the hard drive had failed, even after having taken a course on hardware. There was also some difficulty that her supervisor observed in Ms. Lovegreen's ability to understand when to reinstall and what else to do first.

It was explained by the Agency that this position required the employee to work independently. The position required the employee to do basic research and basic troubleshooting. It also required a great deal of dependability which was at issue with Ms. Lovegreen who apparently was out of the office above the average for the employees in that department. However, the State made it very clear that Ms. Lovegreen was never out beyond the time that was permitted.

The State also discussed some behavioral issues with Ms. Lovegreen, and the offer of proof indicated that while there apparently were letters of counsel or warning relating to Ms. Lovegreen, they had not been reviewed by Ms. Fister, although she was aware of them. Ms. Fister's manager, Ms. Sally Gallerani, asked Ms. Fister to consider the attitude and similar issues of Ms. Lovegreen, with specific emphasis on how much time would be necessary to train Ms. Lovegreen and also how much time would be available to supervise her.

According to the presentation of the State, the issues with Ms. Lovegreen and their concerns about her ability to perform the job were 80-90% technical and 10-20% behavioral. After the interview, Ms. Fister consulted with Sharon Goddard to review any other issues or problems that might have appeared in Ms. Lovegreen's work performance. There were concerns raised at that time about Susan staying within the process and her limited approach toward certain projects.

The State also emphasized that teamwork is very important in this position. While the State does not force people to work overtime, the demand for the services is such that many people need to work extra hours just to finish the required work. Past experience with large projects showed that Ms. Lovegreen did not work extra hours very often; in fact it was rare that she did. Only one other person in the Agency did not participate, although most did in providing this extra work. That was a major concern for the Agency as it related to this particular position.

Ms. Lovegreen then explained that on July 22, 2002, Ms. Fister told her that she had passed the interview. Ms. Fister asked to review the personnel file; and Ms. Lovegreen was advised by Ms. Hutchins that the personnel record was not to be a part of the interview process. Ms. Lovegreen advised Ms. Fister of that and denied access to her

personnel file. Ms. Lovegreen then explained a little bit of the duties that she was currently performing. In her current position as Technical Support Specialist I, she would receive reports through the "Seneca" system of requests for assistance. At the help desk in the Brown Building there were approximately 600 computers for which Ms. Lovegreen's section of the Agency is responsible to assist the operators. She explained there is no training plan in place and with her limited skills, she would appreciate receiving additional training. Generally, however, she is left alone in the building to resolve whatever issues appear. Ms. Lovegreen also explained that in the year's time frame, she had resolved 500-600 help requests.

She questioned whether Ms. Fister ever reviewed the database relating to the help requests and the types of issues that had been resolved by Ms. Lovegreen. She believed that a review of that would show that there had not been a lack of independent work capability, but indeed, just the opposite.

Ms. Lovegreen also explained that she had asked many times to work with the LAN coordinator to learn more about that process. She said she had taken an APLUS course that her supervisor took as well. However, because of the volume of work on a daily basis, it was very difficult for her to work extra time and to get training outside of the normal work day. She does not have time to do research on busy days and cannot go on the internet to find answers to all of the problems.

She questioned her lack of thoroughness and Ms. Lovegreen felt that under PER 602.02, she was the most qualified candidate for the position and should have been selected. She also questioned the concerns that were raised about her communication. She was not aware of any documented complaints about her work with her customers.

In response to the statements made by Ms. Lovegreen, the Agency stated that there were training opportunities and a specific amount of time per week was set aside for that. They acknowledged that sometimes Ms. Lovegreen was not able to use these times which total about four hours every other week. They have also tried to work with her to try to remove some of her duties to give her more time to complete the training that she has requested.

The State also offered evidence that Ms. Fister had reviewed the selection process with Ms. Lovegreen and had reviewed the training plan that Ms. Lovegreen had developed on her own. They acknowledged her on-site experience, but they believed that the job description and supplemental job description required more than what Ms. Lovegreen had to offer as far as her experience, and for that reason she was not selected.

Decision and Order

The Board recognizes management's broad discretion in determining which employees are best suited for promotion and the Board will generally not substitute its judgment for that of the appointing authority in assessing candidates' qualifications for specific vacancies. The Board also understands the rights afforded by the Rules of the Division of Personnel to employees to be considered for vacancies for which they have applied, to compete fairly for selection to those vacancies, and to be apprised of the reasons for non-selection when their applications are rejected. As PER 602.02(d) provides, "candidates may be denied selection if, in the opinion of the appointing authority, they are deemed to lack personal or professional qualifications for promotion."

Based upon the information presented, the Board believes the Agency had sufficient information concerning the personal and professional qualifications of Ms. Lovegreen upon which to base their decision not to select her for the position of Technical Support Specialist II. Accordingly, the appeal of Ms. Lovegreen is DENIED.

THE PERSONNEL APPEALS BOARD

/s/  
Patrick H. Wood, Chair

/s/  
Robert J. Johnson

/s/  
Anthony Urban

cc: Joseph P. D'Alessandro, Director of Personnel  
Attorney John Martin, DHHS  
Karen Hutchins, Human Resources Administrator, DHHS  
Susan Lovegreen, DHHS  
John Andersch, Jr., SEA Steward, NHH