

State of New Hampshire

88-P-117

PERSONNEL APPEALS BOARD



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APPEAL OF DOLORES SULLIVAN

May 26, 1988

On March 14, 1988, the Promotion Appeals Tribunal consisting of George C. Cushman and members Joan Day, Human Resources Coordinator (Department of Employment Security) and George Liouzis, Human Resource Coordinator (N.H. Liquor Commission), heard the appeal of Dolores Sullivan. Ms. Sullivan, an employee of the New Hampshire Hospital, was appealing her non-selection to the position of Dietitian Assistant, salary grade 10. Ms. Sullivan was represented by SEA Field Representative Ann Spear. The New Hampshire Hospital was represented by Scott W. Danico, Food Services Director.

Ms. Spear contended that since Ms. Sullivan was the only in-house candidate for promotion, she should have been afforded the opportunity to prove she was capable of fulfilling the requirements of the vacancy for which she had applied. Ms. Spear also pointed out that the purpose of the probationary period is to provide the appointing authority with an opportunity to evaluate the employee's performance in the position to which he/she is promoted.

Mr. Danico testified that Ms. Sullivan had managerial experience but that she lacked the clinical knowledge required for selection. Mr. Danico interviewed the appellant, asking ten questions to measure the technical knowledge and clinical skills required for this position. The appellant scored 53 out of a possible 100 points during this interview.

The Promotion Appeals Tribunal recognizes that the probationary period as defined in Per 302.23 is an integral part of the appointment process, and provides the appointing authority with an opportunity to provide training as well as to evaluate the employee's performance. This probationary period also provides for dismissal during probation if the employee fails to meet the work standard, and for returning the employee to a position similar to that from which he/she was promoted, if such position is available.

The Tribunal found that the probationary period should be utilized as an integral part of the permanent appointment process, but should not be considered part of the initial selection procedure. Determination of capacity for a vacancy or suitability for a position should be ascertained prior to appointment.

The Tribunal found that although Ms. Sullivan was the only in-house applicant

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page 2

for the position₁ and although her application was certified by the Division of Personnel as meeting the minimum requirements for consideration for the position₁ her non-selection was not violative of the Rules of the Division of Personnel. The appellant failed to demonstrate during the selection process the technical/clinical skills required for selection to the vacancy.

Per 302.03(b) stated that selection for such promotion shall be based upon capacity for the vacant position. Further, "If the appointing authority finds certain professional and personal qualifications lacking in even ostensibly qualified candidates for promotion, employees may be denied promotion." In this instance₁ the Tribunal found that the applicant was deemed to lack necessary clinical skills which formed the criteria for determination of capacity for the vacancy. The Tribunal therefore voted to deny the appeal.

FOR THE PROMOTION APPEALS TRIBUNAL

Mary Ann Steele

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Executive Secretary

N.H. Personnel Appeals Board

cc: Sharon Sanborn, Director of Human Resources
New Hampshire Hospital

Ann Spear₁ SEA Field Representative