

State of New Hampshire



PERSONNEL APPEALS BOARD

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APPEAL OF MARY J. ALLARD Docket #92 - O - 25

February 22, 1994

The New Hampshire Personnel Appeals Board (Bennett, Johnson and Rule) met Wednesday, October 20, 1993, to hear the appeal of Mary J. Allard, an employee of the New Hampshire Department of Labor. Ms. Allard, who appeared *pro se*, was appealing the Personnel Director's June 16, 1992 decision refusing to certify the appellant as meeting the minimum qualifications for the classification of Human Resources Coordinator II. Virginia Lamberton, Director of Personnel, appeared on behalf of the Division of Personnel.

On May 11, 1992, Ms. Allard submitted an application for a vacant position of Human Resources Coordinator II at the Department of Postsecondary Technical Education. The class specification for that position contained the following statement of minimum qualifications for education and experience, as well as recommended work trails:

Education: Bachelor's degree from a recognized college or university with major study preferably in industrial relations, personnel management, or business administration. Each additional year of approved formal education may be substituted for one year of required work experience.

Experience: Four years' experience in professional personnel work at an administrative, supervisory or technical level in one or more of the following: job classification, examination, job analysis, personnel administration, labor relations, recruitment or related experience.

Recommended Work Traits: Extensive knowledge of the principles and practices of personnel administration with particular emphasis on job classification and compensation, recruitment and employment practices as well as hearing and grievance procedures. Skill in analyzing positions for pay and classification purposes, in making organizational and functional studies and in investigating difficult cases to determine validity of grievances. Ability to interview applicants for employment. Ability to supervise and train subordinates. Ability to conduct hearings on personnel situations and develop solutions for same. Ability to communicate effectively both orally and in writing. Ability to establish and maintain effective working relationships with other employees, job applicants and the general public. Ability to work within the framework of a collective bargaining contract and to conduct negotiations with labor organizations.

In her application for the posted vacancy (State's Exhibit 2) Ms. Allard listed her experience as follows:

September, 1981 to August, 1987
Quality Control Reviewer, Division of Human Services

August, 1987 to September 1990
Human Resources Specialist, Division of Personnel

September, 1990 to May, 1992
Workers' Compensation Special Funds Coordinator, Department of Labor

Ms. Allard's application for the vacant Human Resource Coordinator II position was rejected on the basis of insufficient experience. In her letter to the appellant dated June 29, 1992 (State's #4), the Personnel Director outlined her rationale for rejection as follows:

"...[Y]ou state that you manage three workers' compensation funds including the collection and disbursement of monies. You also indicate that you analyze requests of insurance carriers to administratively reduce or terminate worker's compensation benefit of claimants. This experience is in the field of workers' compensation. It is not professional human resource experience as is required on the job specification. There is no mention on the specification for workers' compensation duties. Typically, Personnel Clerks will complete the forms for workers compensation and forward this to your Department as well as the Workers Compensation Commission."

The class specification for Workers' Compensation Special Funds Coordinator, the position for which Ms. Allard was hired in September, 1990, contains the following minimum qualifications for Experience:

Four years' experience in a human resources related field with at least one year of experience working with the Workers' Compensation law. Additional years of related work experience may not be substituted for the formal education required by this class specification.

Ms. Allard testified that during the period of her employment with the Division of Personnel as a Human Resources Specialist, August 1987 through September 1990, she applied for and was considered qualified for the position of Supervisor V, salary grade 25, (Supervisor of Classification and Organizational Analysis). She asserted that the specification for that classification contains the same minimum qualifications as those found on the specification for Human Resources Coordinator II. She asked the Board to find that with her additional experience as the Special Funds Coordinator at the Department of Labor, her application should have been certified as meeting the minimum qualifications to be included on a list of eligibles for any Human Resources Coordinator vacancies.

In support of her argument, Ms. Allard submitted a letter signed by her former supervisor, Sarah Willingham, Administrator of the Bureau of Human Resources, which stated in part:

"Thank you for your recent application for the position of Supervisor, Classification Section. As you can imagine, the process of selecting one of the four well-qualified applicants was extremely difficult. ... Among the three applicants that were not selected, you were the strongest candidate for the Classification Supervisor position. Your skill, knowledge and ability is an asset to the Division, especially your

strong motivation and sincere commitment to the new classification system. You indicated in your interview that you would like to assume more responsibility and work from more of a management perspective. ... Your desire to better the personnel system based on the needs of the State of New Hampshire makes you an excellent candidate for any Supervisor position, and I would encourage you to apply again should future vacancies occur.

(See: December 1, 1989 letter of Sarah Willingham to Mary Allard)

In May, 1992, when Ms. Allard applied for the position of Human Resources Coordinator II at the Department of Postsecondary Technical Education, the Division of Personnel credited her with three years and one month of the work experience required to meet the qualifications for the position of Human Resources Coordinator II (August, 1987 - September, 1990). Of the remaining eleven months required, Ms. Allard asked the Board to find that her tenure at the Department of Labor (October, 1990 - May, 1992) should be considered relevant experience for the purposes of certification.

Ms. Lamberton testified that none of the four in-house applicants for promotion from Classification Analyst to Supervisor of Classification and Organizational Analysis within the Division of Personnel actually met the minimum qualifications for Supervisor V, the classification of the position in question. She testified that the four employees were given a unique promotional opportunity only because it would have been unreasonable to select a candidate from outside of the Classification Bureau to supervise Analysts who were already familiar with the classification system. She testified that Ms. Allard's "certification" under those circumstances should not be considered relevant in the instant appeal.

According to the exhibits submitted by the Personnel Director, Ms. Allard, with the approval of the Director of Personnel, was transferred into the position of Workers' Compensation Funds Special Funds Coordinator (salary grade 21) for 6 months at a trainee level. Ms. Lamberton asserted that Ms. Allard lacked 11 of the 48 months of professional personnel administration required by the Human Resources Coordinator II specification when she applied for that position, and that she continued to lack that experience. She argued that administering funds could not be considered equivalent to personnel administration. In her letter to the appellant dated June 29, 1992 (State's Exhibit #4) the Director stated:

"You also indicate that you analyze requests of insurance carriers to administratively reduce or terminate worker's compensation benefit of claimants. This experience is in the field of workers' compensation. It is not professional human resource experience as is required on the job specification. There is no mention on the specification for workers' compensation duties. Typically, Personnel Clerks will complete the forms for workers compensation and forward this to your department as well as the Workers' Compensation Commission."

Director Lamberton argued that Workers' Compensation is a statutory entitlement, not a benefit, and that Human Resources Coordinators have no authority to make decisions with regard to Workers' Compensation cases. She testified that with regard to returning employees to work after an absence due to a workplace injury or illness, the Human Resources Coordinator, not the Workers' Compensation representative, would be responsible for altering job responsibilities or making accommodations to return the employee to work, and that the appellant therefore could not claim any practical experience in that regard.

On the evidence, the Board does not agree. The Board found that Ms. Allard met her burden

of proving that some, if not all, of her 21 months at the Department of Labor as the Special Funds Coordinator should be considered relevant for the purposes of certification in the class series "Human Resources Coordinator". At the Human Resources Coordinator II level, the position requires four years of experience in professional personnel work at an "administrative, supervisory or technical level with experience in job classification, examination, job analysis, personnel administration, labor relations, recruitment, or related experience."

Ms. Allard has already been credited with 37 months of technical experience in job classification and job analysis. Workers' Compensation funds administration is certainly "related experience" at a technical level and should be considered appropriate for purposes of certification. Inasmuch as the first 6 months of Ms. Allard's employment at the Department of Labor was at a trainee level, the Board found that experience would not qualify as professional personnel work at a technical level, and therefore should not be applied to the required 48 months.

The Board found that Ms. Allard should have been certified as meeting the minimum qualifications for the position of Human Resources Coordinator II, and on that point her appeal is granted. Nonetheless, the Board notes that such a decision would not result in Ms. Allard's selection for the subject position, only her inclusion on a list of potential appointees for the class of Human Resources Coordinator II for any vacancies which might occur in the future, provided that the qualifications for the position are unchanged.

In addition to requesting certification for the classification of Human Resources Coordinator II, Ms. Allard asked the Board to find that she should be certified as meeting the minimum qualifications for the classification of Human Resources Administrator, salary grade 26. The Board declines to make such a ruling. The instant appeal was limited to Ms. Allard's non-certification for the classification of Human Resources Coordinator II arising out of her application for a Human Resources Coordinator II vacancy. The additional relief which Ms. Allard has requested is denied, as it goes beyond the scope of the hearing.

THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Esq., Acting Chairman



Robert J. Johnson, Commissioner



Lisa A. Rule, Esq., Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Mary J. Allard, Appellant