State of New Hampshire

PERSONNEL APPEALS BOARD
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APPEALS OF MARILYN FRASER
Division for Children and Youth Services
Docket #91-O-41 and #91-O-19

April 21, 1994

The New Hampshire Personnel Appeals Board (McNicholas, Bennett and Rule) met Wednesday September 22,1993, to hear the continuation of Marilyn Fraser's appeal of her non-certilication for the position of Administrator IV. The original hearing in this matter, with Commissioners Bennett, Rule and McGinley sitting, had been scheduled on Wednesday, February 5, 1992. At that hearing, Ms. Fraser objected to the Board hearing any testimony on records contained in her personnel file which she had not reviewed prior to the hearing. Accordingly, the Board agreed to continue the matter and to complete the hearing at a later date to permit Ms. Fraser additional time to review her file. Both Ms. Fraser and Ms. Lamberton agreed to allow Commissioner McNicholas to hear the remainder of the case and participate in the decision, provided that he reviewed the information presented at the first hearing.

Ms. Fraser, who appeared pro se at both hearings, argued that her experience as a supervisor working in the Manchester District Office should have been considered in evaluating her experience at a managerial or administrative level for the purposes of certification. She also argued that she was improperly denied credit for her experience as the owner/operator of her. own business, Precious Resources. Virginia Lamberton, Director of Personnel, appeared on behalf of the Division of Personnel at both hearings.

Ms. Fraser's first request for a hearing (Docket #91-O-19) was filed on January 2, 1991, by letter from the appellant dated December 27, 1990. Ms. Fraser was appealing the Division of Personnel's decision refusing to certify her as meeting the minimum qualifications for the position of Administrator IV in the Division for Children and Youth Services. She stated that her application had been rejected on the basis of insufficient experience. She argued that the Division of Personnel improperly denied her credit for her tenure as CFS Supervisor at the Manchester District Office of the Division for Children and Youth Services, and for her experience for directing her own clinical social work practice.

Ms. Fraser argued that while she was classified as a Supervisor VI at the Manchester District Office, the largest of the State's district offices, she performed highly responsible, professional duties. She argued that as the CFS (Child and Family Services) Supervisor, she was responsible for implementation and administration of six child welfare programs, all aspects of district office operations, program objectives, management of 25 professional staff, staff training and development, public relations, and community education.

Ms. Fraser argued that each district office in DCYS functioned as a de-centralized unit, responsible for its own program management. She argued that the Supervisor in each district office worked independently as the decision-maker and administrator responsible for all aspects of daily operations, including planning, and service delivery. She asked the Board to

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find that her position of CFS Supervisor (salary grade 26) was comparable to the classification of Administrator I (salary grade 26), and reflected administrative responsibilities equivalent to the classification of Administrator I. With regard to her own business, Precious Resources, Ms. Fraser argued that she had assumed full responsibility for all aspects of the business, including direction and administration. She asked the Board to find that this experience qualified as high level administration of social service programs.

On June 25, 1991, by letter dated June 19, 1991, Ms. Fraser filed a second hearing request (Docket #91-O-41) to appeal her second denial of certification for the position of Administrator IV in the Division for Children and Youth Services. The basis for the denial, and the basis for her appeal, were identical to the issues set forth in her original pleadings.

The "Scope of Work" described for the position of Administrator IV in the Division of Children and Youth Services, Bureau of Children, is stated as follows:

> Administers bureau objectives with overall responsibility for directing all aspects of operations management. The Bureau of Children provides services to children and youth through 18 staff units comprised of approximately 225 staff and a state office staff of approximately 20. Bureau management includes management, program and field operations in order to protect children and preserve families under state and federal mandates of the Division for Children and Youth Services.

The position "Accountabilities" for that classification are listed on the specification as follows:

> Administers all aspects of operations management of the Bureau of Children including evaluating and planning operating procedures and policies in accordance with statutory directives.
>
> Directs and coordinates work performed by 18 geographically separated units of approximately 225 staff with a state office central staff of approximately 20 in accordance with statutory directives.
>
> Advises the Deputy Director, Division for Children and Youth Services, and other staff on financial requirements, budget preparation, fiscal procedures and associated administrative matters.
>
> Plans and initiates internal reviews such as administrative reviews and quality assurance audits to meet statutory and federal directives.
>
> Manages control of agency funding by directing Bureau staff on matters such as distribution of allotments and availability of budgetary funds for program purposes.
>
> Confers with administrators, public officials and judges in matters concerning program, fiscal and other administrative operations such as legislative committees, Board of Governors and other publicly appointed officials.
>
> Oversees and delegates the preparation of federal grant proposals to achieve new methods of program delivery and administration.
>
> Creates procedure and policy directives for approximately 250 staff to ensure the orderly and appropriate conduct of Bureau services.

Designs, implements and evaluates long and short range planning in order to meet federal and state mandates and in order to provide efficient and effective service delivery.

Represents the Division for Children and Youth Services to the public in order to promote greater public awareness and cooperation.

The minimum qualifications listed on the specification are as follows:

Education: Possession of a Master's degree from a recognized college or university with a major in human services, social work, psychology, sociology, criminology, criminal justice, counselling OR public administration, business administration with at least 24 credit hours in the major studies listed above.

Experience: Eight years' experience in high level administration of social service programs, five years of which must have been in management or consultive position involving administrative or supervisory duties concerned with program planning and evaluation.

Ms. Fraser possesses a Master's degree in Social Work, satisfying the minimum education requirement. The issue of her certification turns solely on the sufficiency and relevancy of her experience at the time of her application. Ms. Lamberton testified that a review of Ms. Fraser's personnel records would reflect that Ms. Fraser was a part-time employee from 1986 through 1989. Ms. Fraser argued that her experience should still be considered full-time because 80% of her time was spent working in an administrative level position at the Department of Health and Human Services, and the remaining 20% was spent running her own business. She argued that her work experience was more than sufficient to qualify for certification at the level of Administrator IV.

In order to meet the minimum qualifications for consideration, Ms. Fraser's position responsibilities would have needed to consist of "high level administration of social service programs" equivalent to working on a full-time basis from December 21, 1982, through November 20,1990, when she first made application for the position of Administrator IV. Five of those eight years would need to have been in a management or consultive position involving administrative or supervisory duties concerned with program planning and evaluation.

After reviewing Ms. Fraser's written submissions and considering her testimony, the Board did not find that the operation of her own business as a clinical social worker met the criteria to be considered part of the eight year minimum experience in "high level administration of social service programs". Similarly, the Board did not find that Ms. Fraser's experience at DCYS as a Social Worker qualified as "high level administration" or management. Therefore, in considering Ms. Fraser's qualifications for certification for vacancies in the classification of Administrator IV, the Board will only concern itself with her experience as a supervisor in the Manchester District Office.

According to the record, Ms. Fraser was employed as a Social Worker beginning on August 21, 1970 through May 7,1974, when she left full-time employment to work part-time. Ms. Fraser's part-time position in the Concord District Office was reclassified to Social Worker II on July 1,1977. Ms. Fraser returned to full-time employment on July 17, 1978 as a Social Worker I and was then upgraded to Social Worker II on September 1, 1978. She was upgraded again to Social Worker III on June 8, 1981, upon completion of her Master's degree in Social Work. Records

supplied by Ms. Fraser indicate that on February 22, 1982, she was promoted from Social Worker III, salary grade 18 to CFS Supervisor, salary grade 22.

Ms. Fraser's position in the Manchester District Office was upgraded on June 4, 1985, to Supervisor VI, retroactive to January 20, 1984. On May 12, 1986, Ms. Fraser left full-time employment, working part-time until May 11, 1989, when she returned to work full-time as an Administrator I. Ms. Fraser's position was eliminated on April 5, 1990 due to a reduction in force. She was rehired as a Supervisor V, which her personnel file recorded as a demotion in lieu of lay-off. Although the record is unclear as to the effective date of the change, she was later moved into a position of Supervisor VI.

Taking into consideration the retroactive upgrading of Ms. Fraser's Social Worker III position to Supervisor VI, that period of employment would provide January 20, 1984 through May 12, 1986 as full-time employment at the level of Supervisor VI, totalling 27 months, 22 days. On May 12, 1986, Ms. Fraser converted to part-time and remained part-time in an Administrator I capacity until May 11, 1989, working 60% of the time. That period of work would be equivalent, in full-time terms, to 21 months, 18 days. Between May 11, 1989 and April 5, 1990, when Ms. Fraser's position was eliminated, Ms. Fraser worked 10 months, 24 days. From the period of her return to work on May 7, 1990 and the date of her application for promotion to Administrator IV on November 20, 1990, she would have qualified for another 6 months, 13 days at an administrative level position.

The total service period which might be considered for the purposes of certification on November 20, 1990, based on the above chronology of events, is sixty-six months and seven days, or five and one half years. The minimum qualifications for Administrator IV require eight years' experience in high level administration of social service programs, five years of which must have been in management or consultive position involving administrative or supervisory duties concerned with program planning and evaluation.

Until Ms. Fraser's reclassification to Supervisor VI, the Board can not consider her experience to qualify as "high level administration of social service programs". Although Ms. Fraser's experience may qualify under the five year minimum for "a management or consultive position involving administrative or supervisory duties concerned with program planning and evaluation", her overall experience does not qualify under the eight years' experience which the position requires. The Board found that her administrative experience fell some two and one half years short of the required minimum qualification. By June 1991, when Ms. Fraser appealed her second denial of certification for the position of Administrator IV, her administrative experience was still short of the required minimum qualification by almost two years.

There appears to be little dispute about Ms. Fraser's abilities to effectively manage and supervise a district office, and the Board has always taken the position that "minimum qualifications" are precisely that, and should not be viewed as the measure of the best qualified candidate for promotion. In cases where there is experience which might be considered, the Board has generally been of the opinion that employees should be allowed every opportunity to apply former work experience in qualifying for certification. For instance, in spite of the Personnel Director's insistence that Supervisor VI duties do not qualify as the type of experience required to certify as an Administrator IV, the Board is inclined to accept that experience as meeting the minimum qualification for consideration. However, in the instant case, Ms. Fraser's experience as a Social Worker can not be considered sufficient to qualify as experience in high level administration of social service programs. Therefore, it can not be included in satisfying the eight year minimum experience requirement.

On the record before it, the Board voted to deny Ms. Fraser's appeal.

THE PERSONNEL APPEALS BOARD

Patrick J. McNicholas, Chairman

Mark J. Bennett, Commissioner

Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Marilyn Fraser
Sandra Platt, Human Resources Administrator, Health and Human Services