

State of New Hampshire



PERSONNEL APPEALS BOARD
25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF PAMELA CORRIVEAU AND ANN LANE

Docket #92-O-14

Response to Appellant's Rehearing Request

June 2, 1997

By letter dated February 18, 1997, Thomas Hardiman, SEA Director of Field Operations submitted a Request for Rehearing in the appeal of Pamela Corriveau and Ann Lane. The Division of Personnel's Objection to that Request was received by the Board on February 20, 1997.

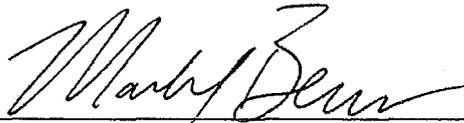
Having reviewed the Request and Objection in conjunction with the Board's decision in this matter, the Board voted unanimously to affirm its January 31, 1997, order. In so doing, the Board also voted unanimously to deny the Appellants' Request for Rehearing.

First, the appellants have simply restated the evidence and arguments presented during the hearing and considered by the Board in reaching its decision denying Ms. Corriveau's and Ms. Lane's appeals. While it is clear that the appellants disagree with the Board's decision, such disagreement does not constitute "good reason" for a rehearing, nor does it establish a basis upon which to claim that the order complained of is unreasonable or unlawful. Furthermore, the weight of the evidence supports the conclusion that the Division of Personnel correctly determined that Ms. Corriveau did not meet the minimum qualifications for the position of Human Resources Assistant III. Despite Mr. Hardiman's claims that the Board's decision "...flies in the face of an independent certifier's

authority such an individual had to certify applicants for positions in the classified service.

The Board found, and continues to find, that Ms. Corriveau did not meet the minimum qualifications for the position of Human Resources Assistant III. The Board found, and continues to find, that Ms. Lane's claim was speculative and depended upon a favorable ruling in the Corriveau appeal before the Board could take up the actual merits of Ms. Lane's case. Accordingly, the Board voted unanimously to deny the appellant's Rehearing Request.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD



Mark J. Bennett, Acting Chairman



Lisa A. Rule, Commissioner



James J. Barry, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Thomas Hardiman, Director of Field Operations, State Employees' Association
Donald Hill, Commissioner, Department of Administrative Services

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APPEAL OF PAMELA CORRIVEAU AND ANN LANE

Department of Administrative Services

Docket #92-O-14

January 31, 1997

The New Hampshire Personnel Appeals Board (Bennett, Rule and Barry) met on Wednesday, January 22, 1997, under the authority of RSA 21-I:58, to hear the appeal of Pamela Corriveau and Ann Lane, employees of the Department of Administrative Services. The appellants were represented at the hearing by SEA Director of Field Operations Thomas Hardiman. Virginia A. Lamberton, Director of Personnel, appeared on behalf of the State.

The appellants alleged that the Director of Personnel improperly refused to certify Ms. Corriveau as meeting the minimum qualifications to bump into a position of Human Resources Assistant following the appellant's notice of lay-off. They alleged that because of that certification decision, Ms. Corriveau and Ms. Lane, who both had been employed as a Source Documents Examiners, salary grade 14, were forced to accept positions at substantially lower salary grades. The appellants also alleged that the Division of Personnel "played favorites," refusing to certify Ms. Corriveau as meeting the minimum qualifications for Human Resources Assistant solely as a means of prohibiting Ms. Corriveau from bumping a less senior employee of the Division of Personnel. The appellants asserted that because Ms. Corriveau was forced to accept a position as an Accounting Technician, salary grade 11, that position was unavailable for Ms. Lane to accept.

The appeal was heard on offers of proof by the representatives of the parties. The record in this matter consists of the audio-tape recording of the hearing, and documents and pleadings submitted by the parties prior to the hearing.

By letter dated November 12, 1991, Pamela Corriveau received notice that because of budget cuts, she was to be laid off from her position of Source Documents Examiner, salary grade 14. She was also informed that under the provisions of (former) Per 308.05, she was entitled to "bump" a less senior employee in a lower salary graded position if she met the qualifications for that position. Ms. Corriveau elected to bump into a position of Human Resources Assistant, salary grade 13, assigned to the Division of Personnel. However, after submitting her application for certification, Ms. Corriveau was informed that she did not meet the minimum qualifications. She was later certified as meeting the qualifications for Accounting Technician, salary grade 11, and bumped into a position of that title and grade at Graphic Services.

Mr. Hardiman asked the Board to find that Ms. Corriveau was improperly denied certification, and in so doing, find that Ms. Corriveau's experience in payroll auditing, as well as her work in a retail environment qualified as "human resource work." He further asked the Board to find that certification must be based on a review of minimum qualifications, not the "basic purpose" of a job as found on the class specification or supplemental job description. Finally, he asked the Board to order that Ms. Corriveau receive compensation for six months for the difference in salary between what she received as an Accounting Technician and what she would have received as a Human Resources Assistant. He also asked that Ms. Lane receive compensation for a period of 2 years and 8 months for the difference in salary between that which she would have received as an Accounting Technician and that of the position into which she could be reassigned. Finally, Mr. Hardiman asked the Board to order that the appellants have no further restrictions on their qualifications, including that they be exempt from any further examination requirements for the positions in question.

Ms. Lambertson argued that Ms. Lane's appeal should simply be dismissed, as she had never submitted an application for review or certification, and that determining what might or might not

have happened if Ms. Corriveau had bumped into the position of H. R. Assistant III was purely speculative. She also argued that the decision denying Ms. Corriveau certification for H. R. Assistant was based solely on a review of her application in comparison to the qualifications for the position. She argued that Ms. Corriveau did not meet the minimum qualifications, in that her "payroll auditing" function in the Division of Accounting Services was not the same as personnel work as described by the H.R.A. III class specification and supplemental job description.

Ms. Lamberton reviewed Ms. Corriveau's applications, as well as the specifications for Human Resources Assistant II and III, noting that because Ms. Corriveau did not possess an Associate's degree in business administration or personnel management, she would have required four years of experience equivalent to that of a Human Resources Assistant II in order to qualify as a Human Resources Assistant III. She noted that on all of Ms. Corriveau's applications, her work was listed as key-punch and data entry. She argued that even if the Board were to consider her 14 months experience as a secretary to be sufficient to meet some of the requirement for "personnel work," overall she had insufficient experience to meet the minimum qualifications. She also argued that the experience which Ms. Corriveau listed while working in her father's retail store supervising personnel was not the same as performing "human resource" work.

Ms. Lamberton argued that on a review of Ms. Lane's file, her applications demonstrated that in 1991, she would not have met the minimum qualifications for an Accounting Technician, as that position required an Associate's degree in accounting and two year's experience in accounting and bookkeeping, or in the absence of an Associate's degree, four years' experience in bookkeeping and accounting. She argued that neither appellant met the qualifications for the positions in question, and that it would be improper for the Board to exempt them from future examination requirements.

Having reviewed the exhibits, pleadings, and in consideration of the argument and offers of proof made the by parties, the Board found the following. Contrary to the appellants' assertions, the only way to ascertain an applicant's qualifications for the position of Human Resources Assistant III is by comparing the applicant's experience with the basic purpose and duties of the Human Resources

Assistant II specification. The specification for Human Resources Assistant III which was in effect at that time contained the following statement of minimum qualifications:

Education: Associate's degree from a recognized college or technical institute with major study in personnel or business administration. Each additional year of approved formal education may be substituted for one year of required work experience.

Experience: Two years' responsible clerical work experience with duties at the level of a Human Resources Assistant II involving personnel records maintenance or obtaining, providing and evaluating information concerning employment activities. Each additional year of approved work experience may be substituted for one year of required formal education.

Insofar as a review of Ms. Corriveau's employment applications reveals that she does not possess an Associate's degree in personnel or business administration, she would need four years' experience "with duties at the level of a Human Resources Assistant II." The specification for Human Resources Assistant II, to which the applicant's work experience would be compared, provides the following as a description of the position's "Basic Purpose" and "Characteristic Duties and Responsibilities:"

"To prepare and maintain personnel record in a state personnel unit and to process paperwork used in hiring or terminating employees.

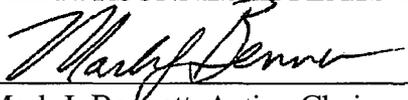
- Maintains a variety of personnel records such as position control, personal history cards and other specific information relating to employees.
- Interviews applicants for employment to obtain data necessary for employment processing.
- Checks and updates changes in membership forms for employee benefits.
- Prepares and disseminates information regarding employee advancement opportunities.
- Maintains and updates registers of qualified eligibles and insures that recruitment requests are processed in a timely manner.
- Types Workers' Compensation forms and maintains suspense files relating to employee accidents.
- Provides assistance to other clerical employees working in a personnel unit, and provides advice to employees in other units preparing personnel forms."

The appellant's applications for employment do not disclose four years' of experience in performing the types of duties described above. Although she has experience in checking or verifying

information such as payroll documents for accuracy and completeness, the Board found her experience to be consistent with an accounting rather than a personnel function. While there may be similarities in the work, the Board was not persuaded that the duties were sufficiently similar to warrant her certification as meeting the minimum qualifications for certification.

The Board found that the Director's decision denying Ms. Corriveau certification as meeting the minimum qualifications for the position of Human Resources Assistant III was supported by substantial evidence. Accordingly, the Board voted to deny her appeal. Inasmuch as Ms. Lane's claim was speculative, and depended entirely upon a favorable ruling in Ms. Corriveau's appeal, the Board did not reach the merits of Ms. Lane's appeal. Therefore, it is dismissed.

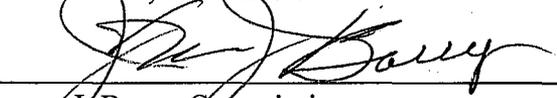
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cc: Virginia A. Lamberton, Director of Personnel
Thomas Hardiman, SEA Director of Field Operations