

State of New Hampshire



PERSONNEL APPEALS BOARD

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

APPEAL OF WALTER GLAZIER'

Department of Transportation
Docket #94-P-2

Response to Appellant's Motion for Rehearing and State's Objection

October 24, 1994

By letter dated September 23, 1994, Thomas F. Hardiman, SEA Director of Field Operations requested that the Board reconsider its September 14, 1994 decision in the promotional appeal of Walter Glazier. The State's Objection to that Motion, submitted by Attorney Kathryn Bradley, was received by the Board on October 3, 1994. Each of the issues raised by the appellant in support of his rehearing request, including relative placement in the selection process, past work performance, previous work experience and departmental seniority, were properly raised by the appellant during his hearing on the merits and considered by the Board in reaching its decision to deny Mr. Glazier's appeal.

Per-A 204.0-6 of the Rules of the Personnel Appeals Board provides that a party to an appeal may request a rehearing by filing a timely motion setting forth every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. The appellant has failed to establish a basis upon which to claim that the decision in question was unreasonable or unlawful in light of the facts of the case as presented by the parties. Therefore, the Board voted unanimously to deny the instant Motion. In so doing, the Board also voted unanimously to affirm its decision of September 14, 1994, denying Mr. Glazier's appeal of non-selection for promotion to the position of Maintenance Supervisor.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


Robert J. Johnson, Commissioner


Lisa A. Rule, Commissioner

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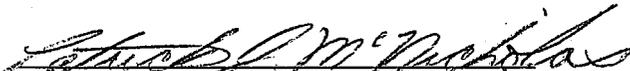
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cc: Virginia A. Lamberton, Director of Personnel
Thomas F. Hardiman, SEA Director of Field Operations
Kathryn Bradley, Assistant Attorney General, Transportation Bureau
Charles O'Leary, Commissioner, Department of Transportation

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APPEAL OF WALTER GLAZIER

Department of Transportation
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September 14, 1994

The New Hampshire Personnel Appeals Board (McNicholas, Johnson and Rule) met Wednesday, August 24, 1994, to hear the appeal of Walter Glazier, an employee of the Department of Transportation, concerning his non-selection for promotion to D.O.T. District 4 Maintenance Supervisor (Position #20922). Mr. Glazier was represented at the hearing by Thomas F. Hardiman, SEA Director of Field Operations. The Department of Transportation was represented by Assistant Attorney General Kathryn Bradley.

As specified in its notice of scheduling, the Board heard the appeal on offers of proof made by the above-named representatives of the parties. The record consisted of the audio tape recording of the hearing and the documentary evidence submitted by the parties and admitted into the record.

Mr. Glazier received notice of non-selection for promotion by a letter dated June 10, 1993, signed by Center D. Sanders, District Engineer. By letter dated June 23, 1993, Thomas Hardiman requested an opportunity to meet with Mr. Sanders to discuss Mr. Glazier's non-selection. Specifically, he stated that Mr. Glazier believed he possessed the knowledge, skills, abilities and personal characteristics to be a maintenance supervisor. He argued that the June 10, 1993 notice of non-selection did not adequately detail the reasons why Mr. Glazier was not selected for promotion, suggesting that Mr. Glazier was "left to wonder if age was a factor in his non-selection". Mr. Hardiman argued that Mr. Glazier had more years of experience with the department than the successful candidate, and should have been selected for promotion on the basis of his "abilities, loyalty to the department and dependability."

In his response to Mr. Hardiman by letter dated, July 26, 1993, Mr. Sanders described the appellant as a "dependable and loyal patrol foreman who clearly has a good record". He indicated that Mr. Glaziers "experience, dedication and loyalty were considered very seriously in the selection process; however, the successful candidate demonstrated skills and abilities in supervision, execution of the tasks, completeness and efficiency of operation during special projects as well as seasonal maintenance activities that were judged superior." In describing the difficulty in selecting the best qualified candidate for promotion, Mr. Sanders described the Maintenance Supervisor position as requiring a person of "special skills and abilities who

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can balance the demands of supervising seven plus crews, dealing with a multitude of personnel situations, and mastering the technical aspects of district office activities and accounting procedures, all while acting as management's field representative to the crews and the crews' representative to Management." Mr. Sanders also stated, "Although it is very important to have a solid maintenance background, it does not necessarily follow that an excellent patrol foreman will make an excellent candidate for a maintenance supervisor."

Mr. Hardiman argued that the Department had not given Mr. Glazier the kind of work assignments which would have allowed him to demonstrate his supervisory skills, or his ability to manage special projects. He argued that if Mr. Glazier had received the same supervisory assignments, he would have demonstrated skill equal to that of the selected candidate. Mr. Hardiman suggested, in his written request for a hearing, that, "All factors that were not controlled by the agency or others, were equal. Therefore, Mr. Glazier should have received the position based on seniority and length of service in his current position."

On the date of the hearing, Mr. Hardiman also asked the Board to consider the qualifications of the successful candidate. He argued that when the District 4 Maintenance Supervisor position was posted, there was a similar posting in District 3. He said that the position posted in District 3 required two more years of experience than the District 4 position. He argued that if the successful candidate in District 4 had applied for the District 3 posting, he could not have certified as meeting the minimum qualifications.

The State argued that the posting in District 3 might have listed the minimum qualifications incorrectly, but that it had no bearing upon the District 4 posting. The State also argued that Mr. Glazier was ranked fourth out of the eight candidates who were interviewed for the vacancy, and that while length of service was one aspect of the selection process, it should not be used as the sole determining factor. On part #1 of the structured interview, which included the factors of appearance, poise, responsiveness, comprehension, and general fitness for the position, Mr. Glazier ranked fourth out of the eight candidates. In part #2 covering the technical aspects of the position, Mr. Glazier ranked fifth out of the eight candidates. When the scores were combined, he finished fourth overall.

After considering the offers made by the parties, and the documentary evidence submitted by both parties, the Board found that the District 4 position of Maintenance Supervisor was properly posted. The Board found that Mr. Glazier suffered no prejudice as a result of the possible improper posting in District 3, and that posting had no bearing upon consideration of his candidacy for the position of Maintenance Supervisor in District 4. Of the candidates applying for promotion, eight employees were certified as meeting the minimum qualifications for consideration, and were interviewed by a panel consisting of Hiram Morrill, Jack Lucier and James Toth. Mr. Toth's memo of May 26, 1993 to Center Sanders noted that Mr. Glazier had been ranked third of the eight candidates. (A later recalculation of the points by Mr. Sanders to correct a mathematical error resulted in Mr. Glazier dropping from third to fourth in the over-all ranking of the candidates.) Based on the interviews, the panel unanimously ranked Baron (Bud) Winders as the highest scoring candidate. Mr. Glazier ranked fourth of the eight promotional candidates.

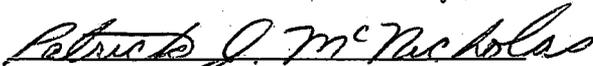
Per 603.02(b) provides for the selection of "the most qualified candidate for the position, in the opinion of the appointing authority." The Personnel Rules require appointing authorities to select the most qualified candidate for promotion based upon possession of the knowledge, skills, and abilities and personal characteristics listed on the class specification for the vacant position, and capacity for the vacant position as evidenced by documented past performance.

Having determined that Mr. Glazier was not the most qualified candidate for the position of Maintenance Supervisor, the Department of Transportation acted within its discretion in denying him selection for promotion to that position. The Department notified him of that decision, and afforded him a further review of that decision through the procedures for informal settlement (Part Per 202 of the Rules of the Division of Personnel).

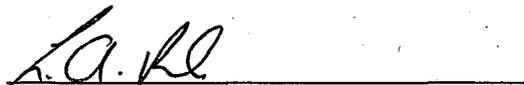
The appellant failed to demonstrate by a preponderance of the evidence that he was better qualified for promotion than the successful candidate who was ranked first, the candidate who was ranked second, or the candidate who was ranked third.

Accordingly, the Board voted unanimously to deny Mr. Glazier's appeal.

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