

State of New Hampshire

88-P-100

PERSONNEL APPEALS BOARD
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APPEAL OF WAYNE BROCK AND BRUCE GRISWOLD

September 14, 1987

The State Employees' Association, on behalf of Wayne Brock and Bruce Griswold, appealed the November 21, 1986 decision of the Promotion Appeals Tribunal, denying Messrs. Brock and Griswold selection to positions of Probation/Parole Officer I. That request was filed on December 2, 1986. In support of their appeal, the appellants cited Per 302.03 of the "Rules of the Department of Personnel," that "whenever possible and reasonable, permanent employees must receive preference in selection over probationary and part-time employees. Subsequent to filing his request for reconsideration/ Mr. Griswold notified the Board on April 3, 1987, that he was withdrawing his appeal.

In the case of Mr. Brock, the Board, pursuant to Per-A 209.04(c) of the "Rules of the Personnel Appeals Board," reviewed the record of the hearing and the evidence submitted and found that he was deemed to lack certain personal and/or professional qualifications in the estimation of the interview panel. Further, the Board found that the panel had been questioned by the Commissioner of Corrections to determine if, in fact, preference had been given to permanent employees to promote them if "possible and reasonable." The Board found that the Commissioner concurred with the decision of the interview panel, having determined that the candidate lacked certain personal and professional qualifications for the vacancy. The Board noted Commissioner Powell's letter of August 25, 1986, which relayed the interview panel's finding that Mr. Brock was not willing to relocate, and that while he "received high ratings for education and experience, the board unanimously ranked [him] lower in the 'over-all assessment' category because of [his] personal appearance." Further, the Commissioner stated that the interview panel had found his answers to be "lengthy and verbose."

The interview panel, the Director of Field Services, and the Commissioner of the Department of Corrections did not find it possible or reasonable to promote Mr. Brock, and indicated through their testimony that they found certain personal and professional qualifications lacking in the appellant.

The Board found no violation of the Personnel Rules relative to selection. The Tribunal determined that the Department of Corrections had exercised its prerogative in selecting for promotion those candidates found to be most qualified and suitable for the vacant positions. The

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board therefore voted unanimously to deny the request for a hearing before the full Board to appeal the Tribunal's decision.

FOR THE PERSONNEL APPEALS BOARD

Mary Ann Steele

MARY ANN STEELE
Executive Secretary

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cc: Stephen McCormack, Field Representative
State Employees' Association

Thomas Tarr, Director
Field Services, Dept. of Corrections

Commissioner Ronald Powell
Department of Corrections

Richard Greenwood, Personnel Officer
Department of corrections

Virginia Vogel
Director of Personnel

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State of New Hampshire

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PROMOTION APPEAL TRIBUNAL DECISION

In the Matter Of:

Wayne E. Brock and Bruce Griswold

November 21, 1986

The Promotion Appeal Tribunal met on October 29, 1986 to hear the appeals of Wayne E. Brock and Bruce Griswold relative to their non-selection to the position of Probation/Parole Officer I. These appeals were filed separately, but the appellants agreed to their appeals being heard together. Messrs. Brock and Griswold were represented by SEA Field Representative Stephen J. McCormack. The Department of Corrections was represented by Conrad Chapman, Personnel and Training Officer for the Department and Thomas Tarr, Director of Field Services, Department of Corrections.

In his presentation, Mr. McCormack stated that both appellants were permanent employees and under the provision of Per 302.03(b)(3) both men should have received preference for the promotion.

Mr. Tarr's testimony revealed that there were eighteen people interviewed for the six positions to be filled. Mr. Tarr covered in some detail specific reasons why Mr. Brock and Mr. Griswold were not selected. Both appellants had requested and received letters detailing the reasons for their non-selection. Both appellants acknowledged they had requested meetings with Commissioner Powell and both had met with the Commissioner, who had explained reasons for their non-selection.

Commissioner Powell testified that he was very concerned about preference in selection, and when he received the recommendations of the Interview Panel, he re-called the members of the panel to Concord for a conference on this very situation. After this conference, he made appointments to the vacant positions based on the recommendations of the Interview Panel.

It is the finding of the Tribunal that while Per 302.03(b)(3) states in part that, "...preference in selection must be given to permanent employees," as stated by Mr. McCormack, Per 302.03(a) states, "A vacancy shall be filled whenever possible and reasonable [emphasis added] by

PROMOTION APPEAL TRIBUNAL DECISION

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promotion of a qualified permanent employee." Additionally, Per 302.03(b)(1) states, "It is the prerogative of the appointing authority to give such weight to an employee's job performance as he deems appropriate when considering the employee for appointment to a vacancy." Further, Per 302.03(b)(2) states, "If the appointing authority finds certain professional and personal qualifications lacking [emphasis added] in even ostensibly qualified candidates for promotion, employees may be denied promotion." The Tribunal finds that the appropriate sections of the Personnel Rules were followed in the selection process. Mr. Brock's and Mr. Griswold's appeals are hereby denied.


EDWARD J. HASELTINE, Chairman
Promotion Appeal Tribunal

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cc: Stephen J. McCormack
State Employees' Association

Thomas Tarr, Director
Division of Field Services

Conrad Chapman, Personnel Officer
Department of Corrections