

# State of New Hampshire

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EXECUTIVE SECRETARY  
Mary Ann Steele

PERSONNEL APPEALS BOARD  
State House Annex  
Concord, New Hampshire 03301  
Telephone (603) 271-3261

88-P-115

## APPEAL OF TRICIA SMITH

MARCH 15, 1988

On Monday, January 25, 1988, the Promotion Appeals Tribunal, consisting of Chairman George R. Cushman, and Personnel Officers Sharon Sanborn (New Hampshire Hospital) and Edwin J. Goodrich (Department of Safety) heard the appeal of Tricia Smith. Ms. Smith, an employee of the Department of Labor, was appealing her non-selection to the position of Worker's Compensation Claims Supervisor, Salary Grade 18.

The Department of Labor was represented by Ann Eaton, Director of Worker's Compensation.

Ms. Smith testified that on July 29, 1987 she submitted her application for the posted position, that her application had been certified as qualified and she was interviewed by Commissioner Kelly on August 31, 1987. She further stated that she had been employed by the Department of Labor for approximately six years and seven months, she had had no disciplinary action taken against her and that she was the only qualified in-house applicant, therefore, she should not have been denied appointment to the position.

Ann Eaton, in her testimony, stated that the position for which Ms. Smith applied was one of substantial responsibility. The non-selection decision was based on her lack of supervisory experience, lack of initiative, her unsatisfactory attendance record and work attitude. Further, that Ms. Smith had recently been appointed to her present position, at which time she was informed that she had been offered the position in the effort to provide incentive for her to improve in the cited areas requiring improvement.

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With the above findings, the Tribunal rules that though Ms. Smith was the only qualified in-house candidate for the position that pursuant to the Rules and Regulations of the Division of Personnel, Per 302.03 (b) (1), **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, (2). **If** the appointing authority finds certain professional and personal qualifications lacking in even ostensibly qualified candidates for promotion, employees may be denied promotion.

Ms. Smith's appeal is hereby denied.

FOR THE PROMOTION APPEAL TRIBUNAL



MARY ANN STEELE  
Executive Secretary

cc: Tricia Smith  
Department of Labor  
Vance R. Kelly, Labor Commissioner