

State of New Hampshire

88-P-116



PERSONNEL APPEALS BOARD

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APPEAL OF LORRI SPEIKERS

November 29, 1988

On June 13, 1988, the Promotional Appeals Tribunal consisting of Loretta Platt, Chairman (Personnel Appeals Board), Sharon Sanborn, Human Resources Coordinator (New Hampshire Hospital) and Joan Day, Human Resources Coordinator (Department of Employment Security), heard the promotional appeal of Lorri Speikers, an employee of the Division of Plant and Property Management. Ms. Speikers was appealing her non-selection to the position of Purchasing Assistant. Ms. Speikers appeared pro se. George Ewing, Bureau Administrator, represented the Bureau of Purchase and Property.

Ms. Speikers argued that she should have been selected to fill one of the two Purchasing Assistant vacancies because she had 3½ years of experience with Purchase and Property, she was familiar with the State's purchasing procedures, and was a competent operator of the various computer systems within the Bureau which would be utilized by the Purchasing Assistant. Ms. Speikers further argued that one of the selected candidates was a probationary employee who "had been with the Department a period of four (4) months at the time of her selection to the Purchasing Assistant position." She also argued that Mr. Ewing's reasons for not selecting her to the position were unclear, and that he did not explain the manner in which the applications were ranked or what criteria had been used in the selection decision. She had also indicated in her original letter of appeal that she had not been interviewed for the position in question.

Mr. Ewing, Bureau Administrator, testified that the seven applications received in response to the Bureau's posting of the Purchasing Assistant positions were rated first through seventh on the basis of the information in the applications themselves and consideration of the employees' past performance. He stated that he had not interviewed any of the candidates since he knew them all personally. Mr. Ewing also testified that he had considered references and recommendations from other supervisors who had worked with the candidates. Based upon those criteria, selection was then made with the two top candidates being offered the positions.

During the course of the hearing, references were made to past work performance and difficulties which the appellant had encountered with the Director of Plant and Property Management. The Tribunal voted to allow both the appellant and the Bureau of Purchase and Property additional time to review Ms. Speikers personnel file and submit additional relevant documents.

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By memo addressed to the Board dated June 17, 1988, Mr. Ewing submitted copies of documents from Ms. Speikers' file which included warnings for absence without prior notification or approval, and excessive use of sick leave. There were also memos concerning appropriate dress for the office and a copy of Ms. Speikers' response concerning her compliance with same.

On June 20, 1988, the Board received from Ms. Speikers a memo requesting five additional days to submit materials for the Tribunal's review, indicating that she had originally believed that she and Mr. Ewing were to have reviewed her file and mutually agreed upon the documents to be submitted to the Board. The five day extension was granted. On June 27, 1988, Ms. Speikers submitted a memo to the Board attaching a July 20, 1987 letter of commendation from Mr. Ewing for her performance in reducing the backlog of requisitions in the Bureau of Purchase and Property. In her communication to the Board, Ms. Speikers argued that "The time frame of these documents [the letters of warning] date from August of 1985 through April of 1986, a period of eight (8) months. The documents of reprimand are at least two (2) years old if not going on three (3) There are no letters of reprimand since April of 1986." In response to the issue of "dress code", the appellant argued that her attire that day was not, in her estimation, a violation of policy regarding appropriate office attire. She stated that despite her discussion with her supervisor, the discipline was not over-turned.

After review of the record, the Tribunal made the following findings. Although at the time of the promotion decision the letters of warning in the appellant's file had expired or were about to expire as a basis for discharge, they were germane to the question of promotion within the agency. The letter of commendation for the appellant's work performance in her current duties is one indicator of work performance. It does not, however, necessarily relate to her capacity for the vacancy of Purchasing Assistant. The absence of candidate interviews, in and of itself, does not form a viable basis for reversal of the selection decision, or repudiation of the selection process. The appointing authority did consider past performance, work habits, prior supervisor recommendations and information on the application of each candidate before selecting the successful candidates for the vacancies. Given the consideration of these factors, the fact that one of the successful candidates was a probationary employee also was insufficient cause to order the selection decision overturned. See Per 302.03(b).

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The Tribunal voted unanimously to deny Ms. Speikers' promotional appeal, concluding that the evidence presented did not support a finding of a violation of the Rules of the Division of Personnel in this selection process.

FOR THE PROMOTION APPEALS TRIBUNAL



MARY ANN STEELE

Executive Secretary

Personnel Appeals Board

cc: Lorri Speikers, Division of Plant and Property Management

George Ewin, Administrator
Bureau of Purchase

Michael Connors, Administrator
Division of Plant and Property Management

Virginia A. Vogel
Director of Personnel