

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:  
JACOB CARNELLI

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DOCKET NO. 18-26

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case

On May 8, 2018, the Vermont State Employees' Association ("VSEA") filed a grievance on behalf of Jacob Carnelli ("Grievant"), an employee of the Department of Corrections on medical reduction in force status, alleging that the State of Vermont ("State") violated Article 66 of the collective bargaining agreement between the State and VSEA for the Corrections Bargaining Unit, effective July 1, 2016, to June 30, 2018 ("Contract"), by denying Grievant the right to be recalled into the position of Motor Vehicle Customer Service Specialist.

A hearing was held on November 8, 2018, in the Labor Relations Board hearing room in Montpelier before Labor Relations Board Members Richard Park, Chairperson; Alan Willard and David Boulanger. VSEA General Counsel Timothy Belcher represented Grievant. Assistant Attorney General Alison Powers represented the State. The parties filed post-hearing briefs on November 30, 2018.

FINDINGS OF FACT

1. The Contract provides in pertinent part as follows:

...

**ARTICLE 37  
INJURY ON THE JOB**

...

3. . . An employee who, due to a job-related or non job-related, injury is separated from his or her position, but is not retired, shall be granted RIF (reduction in force) reemployment rights under the RIF article with the ninety (90) day probationary period. The employee must meet minimum qualifications and be able to perform the duties of the position to which he or she is being reemployed. . .

...  
**ARTICLE 66**  
**REEMPLOYMENT RIGHTS (RECALL RIGHTS)**

**1. MANDATORY REEMPLOYMENT RIGHTS**

An employee with permanent status who has received an official notice of layoff, and who is about to be laid off under the Reduction in Force Article, shall have the following mandatory reemployment rights:

- (a) Beginning thirty (30) days immediately prior to the effective date of the layoff and continuing for two (2) years beyond such effective date, such employee will have mandatory reemployment rights to any vacant classified bargaining unit position when management intends to fill it, provided:
  - (1) Such position is at the same or lower pay grade as the position from which the employee was laid off, or up to the highest position in classified service from which such employee was laid off or from which such employee exercised vertical displacement rights with the two (2) year period prior to the next scheduled effective date of layoff; and
  - (2) The employee meets the minimum qualifications for the position; and
  - (3) The employee has indicated a desire and willingness for the job by stating so in "parameters" established before implementation of these reemployment rights (e.g., full-time, part-time, limited service, permanent, type of position, department, occupation, etc.) During the period of mandatory reemployment rights an employee may at any time change these reemployment parameters for the remainder of the period.

...  
**APPENDIX A**  
**DEFINITIONS**

...  
**MINIMUM QUALIFICATIONS-** the lowest level of skills, experience and educational qualifications necessary for admittance to the examination process.

- 2. Number 4.0, Recruitment and Posting of Vacancies, of State Personnel Policies

and Procedures provides in pertinent part:

...  
**DEFINITIONS**

...  
Job Specification – a document that describes the job duties and minimum education and experience qualifications of the job.

...  
Minimum Qualifications – criteria established for the initial screening of job applicants. Minimum qualifications are usually expressed in terms of the nature and amount of formal education, training, work experience, as well as any special requirements such as licenses, certifications, or physical standards. Minimum qualifications are set at a level



that provides a reasonable likelihood that a candidate for the job possesses the most important minimum required knowledge, skills, and abilities to adequately perform entry level work in the job.

RIF-Clear – the process by which a vacant classified bargaining unit position is reviewed by the DHR Recruiter to determine whether the position must be offered to someone with mandatory reemployment rights to that vacancy, prior to posting a job opening.

#### **4.01 - Posting and Recruitment for Classified Positions**

The recruitment and selection process shall be consistently applied, and non-discriminatory so that it promotes open and fair competition and provides for the hiring of a diverse workforce.

...

#### **4.05 - Reemployment for Employees with Recall Rights**

Some permanent status employees may have mandatory reemployment rights to vacant classified bargaining unit positions (see the Reemployment Rights Article of the current Collective Bargaining Agreements). Consequently, the position must be "RIF-Cleared" by DHR Recruitment services prior to beginning the recruitment process. . .

The hiring manager will be notified in writing by the Recruiter of any applicant(s) with mandatory rehire rights. The hiring manager must contact this applicant within three (3) work days to discuss the position. The hiring manager should provide the applicant with a written offer of employment. No further recruitment efforts will take place if the individual accepts the position. If there is no employee with mandatory reemployment rights, or if the individual(s) with rights declines the position, the recruitment process may begin.

...

#### **4.07 – Screening and Eligibility Determination**

DHR Recruitment Services is responsible for screening all applications and for the final determination of eligibility. Eligible applicants are routed to the HR Administrator and/or hiring manager by the DHR Recruiter.

Screening criteria for a job opening are determined by the Recruiter, with input from the HR Administrator and the hiring manager, based upon the minimum education and experience requirements as outlined in the job specification. Additional screening questions may be used for preferred qualifications.

Once the required minimum posting period ends, the recruiter screens the applicants. Those applicants who meet the minimum qualifications for the job opening will have their applications, cover letters and resumes (if applicable) routed to the department for consideration . . .

Applicants whom the Recruiter finds do not meet the minimum qualifications for the job opening will not have their applications routed to the department, and may not be considered for the position. Any questions regarding an applicant's eligibility must be directed to the DHR Recruiter assigned to the job opening.

It is the responsibility of the hiring manager or HR Administrator to verify that the candidate of their choice actually possesses the required minimum education and experience qualifications as outlined in the job specification, as well as the accuracy of data contained in the application, prior to making an offer of employment.

...  
(Grievant's Exhibit 13)

3 The Recruitment Division of the Department of Human Resources is responsible for all job postings within State government, and it oversees the Article 66 reemployment process.

4: Grievant attended Suffolk University in Boston as a full-time student from September 2006 to May 2010. He received a Bachelor of Science degree in Sociology focused on criminal justice in May 2010 (Grievant's Exhibit 5).

5. Grievant was an Office Assistant from May 2007 to August 2007 in the Suffolk University Financial Aid office. He organized student financial aid reports and records, mailed financial aid awards and records, and helped students at the front office with concerns or questions about financial aid (Grievant's Exhibit 5).

6. Grievant was Assistant for the Directors of Information Technology Services in a work-study position at Suffolk from September 2009 to August 2010. He greeted guests, answered phones, faxed/copied/scanned documents, set up appointments with the Outlook calendar to schedule conferences and training for staff, and picked up and delivered urgent inter-office mail to different departments in the university (Grievant's Exhibit 5).

7. Grievant was hired by the Vermont Department of Corrections in December 2010 as a Correctional Officer I at the Chittenden Regional Correctional Facility in South Burlington.



Grievant worked as a Correctional Officer, a pay grade 18 position, until March 2016, when he incurred a non-work related injury and was no longer able to work as a Correctional Officer. Grievant qualified for a medical reduction in force. He began exercising reemployment rights pursuant to Article 66 of the Contract in October 2017 (Grievant's Exhibit 4).

8. Grievant met with Human Resources Coordinator Denise Fuller of the Recruitment Division of the Department of Human Resources on October 12, 2017, to complete a form establishing the parameters for reemployment, address the extent of reemployment rights, and discuss the reemployment process. The parameters established by Grievant placed restrictions on lifting and other activities with his right arm. He indicated in setting parameters that he would accept work in a part-time first shift position in pay grades 18, 17 or 16 in various cities and towns of Washington County (Grievant's Exhibit 8).

9. Grievant brought his resume, setting forth his educational and work background, to the meeting. He provided a copy of it to Fuller. In the resume under "Work history", Grievant detailed his positions as an Office Assistant from May 2007 to August 2007 in the Suffolk University Financial Aid office, and the work-study position as Assistant for the Directors of Information Technology Services at Suffolk from September 2009 to August 2010. Grievant also detailed under "Work history" his 2010 to 2016 employment as Correctional Officer I at the Chittenden Regional Correctional Facility. In describing the position, Grievant provided in entirety on the resume as follows:

- Supervision, custody, and treatment of inmates in a correctional facility
- Excellent verbal and listening skills for recognizing potential inmate problems, such as suicide risk, intoxication, drug usage, agitated behavior, etc.
- Excellent communication skills regarding security, safety, and operations through chain of command
- Able to perform various types of security searches to detect and confiscate contraband

- Trained annually and kept up with core-comps to abide by State and facility regulations
- Able to deescalate and defuse crisis situations following applied facility guidelines
- Knowledgeable and experienced in transporting inmates to and from different facilities, court houses, and medical appointments throughout the State

(Grievant's Exhibit 5)

10. Fuller was somewhat hostile to Grievant during the meeting. She asked him whether he could type; otherwise she did not discuss his clerical experience. Fuller indicated to Grievant that he should seek a janitorial position in state government. She did not mention any other position to him, Grievant informed Fuller that he suffered from post traumatic stress disorder and did not wish to be a correctional officer or in a position in which he could be assaulted. Fuller told Grievant that she could not guarantee he would not be assaulted by a co-worker.

11. Grievant updated his parameters in December 2017 to indicate he would accept full time and limited services work for any schedule of hours. He added cities and towns in Chittenden, Lamoille and Orange Counties to locations he would accept (Grievant's Exhibit 8).

12. The Department of Human Resources did not make referrals to Grievant of any positions until a few days after the Step III meeting on this grievance.

13. Grievant applied for approximately ten job openings in state government. He received an interview in only one of the openings. He heard from a colleague that a former correctional officer had gone to work as a Motor Vehicle Customer Service Specialist, and that the position was a good fit.

14. The Job Specifications for the Motor Vehicle Customer Service Specialist provide in part:

...



**Pay Grade: 18**

**Occupational Category: Office & Administrative Support**

...  
**Class Definition:** Direct public contact completing technical and clerical work at any of the branch offices, including the Montpelier Office, for the Department of Motor Vehicles. Work involves review, verification, coding and processing of applications for all types of motor vehicle registrations, including the International Registration Plan (IRP), titles, driver licenses, including suspensions, reinstatements, motor fuel tax processing, overweight and dimension permits and required documents. Duties include providing complete and accurate information to the public in person, by telephone and by written communication. This class is distinguished from lower level motor vehicle customer service representatives by constant public contact, handling and completing all types of applications, accountability for all fees and audits. Independence of action is expected to be used within the legal guidelines established. Duties are performed under the supervision of a Unit Supervisor.

...  
**Minimum Qualifications**

**Knowledge, Skills and Abilities:**

Considerable knowledge of motor vehicle financing including liens, mortgages, other encumbrances, and associated documents.

Knowledge of modern office practices, procedures and equipment including computers and associated software.

...  
Knowledge of motor vehicle registration, license, title and tax laws, rules, regulations, procedures and reporting requirements, as well as conviction codes for driver records.

...  
**Education and Experience:**

High school graduation or equivalent AND two (2) years or more of office clerical experience, that included significant public contact.

OR

Completion of a one-year vocational/technical training program in business and office occupations or related area AND one (1) year or more of office clerical experience that included significant public contact.

...  
(Grievant's Exhibit 9)

15. In January 2018, the Department of Human Resources Recruitment Division posted an opening for a vacancy in a Motor Vehicle Customer Service Specialist position in

Montpelier. The Recruitment Division “RIF cleared” this position prior to posting it, after determining that it was not within the parameters of anyone on the RIF reemployment list who met the required minimum qualifications for the position.

16. Grievant applied directly for the Motor Vehicle Customer Service Specialist position, and was not selected for the position through this direct application route. He also contacted Fuller on January 26, 2018, and inquired as to why he had not been referred to the open position. Fuller responded that her office reviewed his eligibility for the position, and stated: “We RIF clear every position before posting. If we had determined that you have the required education and experience for this position we would have made a referral for you.” She also sent Grievant the Education and Experience contents from the Job Specifications set forth in the preceding Finding of Fact. Grievant replied that he fulfilled all the criteria as reflected in his resume (Grievant’s Exhibits 8, 10, 12, 14).

17. Fuller, after discussing the situation with Gail Rushford, Director of the DHR Recruitment Division, responded with the following email sent to Grievant on January 26, 2018:

We are not disputing that you have some incidental clerical experience. But the clerical experience that the qualifications require is “office clerical experience”. This work must have been conducted in an office environment for 8 hours a day for (2) years doing the following tasks:

- answering and directing phone calls
- making phone calls
- taking and distributing messages
- organizing and scheduling appointments
- organizing and coordinating meetings
- handling inquiries and incoming work requests
- reviewing files and records to answer requests for information
- checking and distributing documents and correspondence
- receiving, sorting and distributing incoming mail
- maintaining filing systems
- compiling records of office activities
- photocopying, scanning and faxing
- sending emails
- preparing and sending outgoing mailings and packages



- typing documents and correspondence
- checking and entering data
- updating and maintaining databases
- coordinating work flow
- controlling basic accounting functions such as checking invoices and making deposits
- managing petty cash
- monitoring and ordering inventory of office supplies
- keeping office area neat and tidy

(Grievant's Exhibit 10)

18. Grievant sent Fuller the following email reply that day:

I have had experience in all of the areas you listed in your last email. I fulfilled all those requirements and personal experience while I worked for:

1. Information Technology services at Suffolk University
2. Financial Aid at Suffolk University
3. State of Vermont (Department of Corrections)

(Grievant's Exhibit 11)

19. Fuller did not respond to this email from Grievant.

20. The Department of Corrections experience referred to by Grievant in his email to Fuller referred to his work as a Correctional Officer at Chittenden Regional Correctional Facility ("CRCF") from 2010 to 2016. CRCF consists of an administrative office in the front of the building, and a separate secured area where inmates reside in multiple living units. CRCF has an administrative staff that works in the administrative office and performs administrative and clerical work.

21. As a Correctional Officer, Grievant was assigned to living units and as a float officer. He was responsible for the supervision, custody and treatment of inmates. Correctional officers receive training in appropriate physical restraint techniques and facility security procedures. Correctional officers also receive training on communicating with inmates and others. This included Grievant receiving training in advanced communications techniques which

involve use of communication tools to evaluate and change behavior. Correctional officers are trained to treat inmates with courtesy and respect.

22. Correctional officers routinely perform head counts of the inmate population, conduct security checks, inspect the building and grounds, conduct random searches of inmates and areas, inspect inmates' cells and bunks, supervise inmates' meals, supervise inmates' visitations, conduct perimeter checks, and transport inmates outside the correctional facility. Many of these security functions are documented with a written report or some other paperwork as a record of the activity (Grievant's Exhibits 7, 15).

23. Correctional officers have access to a desk, telephone and computer in the course of their duties in a living unit. They review both paper records and computer files on inmates in performing their duties. Telephone communications to or from a living unit go through correctional officers. They take messages for inmates and distribute them. They organize and schedule meetings between inmates and caseworkers, and also arrange appointments for inmates to receive services. They regularly log information about activities in the living unit, and complete forms as necessary. They receive inmate mail at the facility mail room, and take the mail to the front office to scan, copy and inspect it. The officer then distributes the mail to the inmates. Correctional officers also collect outgoing mail. They communicate by email throughout the day. They order supplies. Grievant performed the duties described in this finding for the equivalent of at least nine months during his tenure as a correctional officer (Grievant's Exhibit 14).

24. The Department of Human Resources Recruitment Division did not consider that any of the correctional officer duties performed by Grievant constituted office clerical



experience. The Recruitment Division has never regarded such duties as office clerical experience.

25. It is possible for the appointing authority of a hiring department in State government to hire an applicant for employment who goes through the competitive hiring process and does not meet the minimum qualifications for the position. An applicant is able to complete a form indicating that he or she meets the minimum qualifications for a position even though the applicant does not actually meet such minimum qualifications. If an applicant self-certifies that he or she meets the minimum qualifications for a position, the Department of Human Resources Recruitment Division does not scrutinize such a claim for accuracy. The Recruitment Division will forward such an application to the hiring department to consider for hiring. Thus, applicants who inaccurately claim to meet the minimum qualifications for a position are considered for hiring by an appointing authority

26. There have been occasions where a hiring department has hired such applicants. For instance, the Department of Motor Vehicles hired an applicant in 2016 to fill the Motor Vehicle Customer Service Specialist position whom indicated on the employment application that he or she met the minimum qualifications for the position but the employment history on the employment applicant did not list two years of office clerical experience. The applicant listed work as a finished goods specialist, commercial bus driver, and nearly four months as a pharmacy technician for employment history. The Department of Human Resources Recruitment Division would not have considered such applicant to have met the two years of office clerical experience for the position (Grievant's Exhibit 16, pages 25 – 27).

27. VSEA filed a grievance on behalf of Grievant on February 12, 2018, at Step III of the grievance procedure, contesting Grievant not being offered the Motor Vehicle Customer

Service Specialist position through the RIF reemployment process. The Department of Human Resources Recruitment Division took the position during the Step III process that Grievant had approximately 15 months of office clerical experience and fell short of the required two years of experience by nine months. The Recruitment Division considered that correctional officer experience did not constitute office clerical experience (Grievant's Exhibits 2 and 3).

28. Shortly after the March 14, 2018, Step III meeting on the grievance, Grievant accepted a position through the RIF Reemployment process as a Mental Health Specialist at the Vermont Psychiatric Hospital. Grievant was still in this position as of the November 8, 2018, Labor Relations Board hearing in this matter.

#### OPINION

Grievant contends that the State violated Article 66 of the Contract by denying him, an employee of the Department of Corrections on medical reduction in force status, the right to be recalled into the position of Motor Vehicle Customer Service Specialist. Articles 37 and 66 of the Contract provide employees such as Grievant, who are separated from their position due to an injury, with mandatory reemployment rights to "any vacant classified bargaining unit position when management intends to fill it, provided . . . (s)uch position is at the same or lower pay grade as the position from which the employee was laid off, . . . the employee meets the minimum qualifications for the position; (t)he employee has indicated a desire and willingness for the job", and "the employee is able to perform the duties of the position".

This case turns on whether Grievant possessed the education and experience minimum qualifications for the Motor Vehicle Customer Service Specialist position. The specifications for the position provide for the following education and experience minimum qualifications:

High school graduation or equivalent AND two (2) years or more of office clerical experience, that included significant public contact.



OR

Completion of a one-year vocational/technical training program in business and office occupations or related area AND one (1) year or more of office clerical experience that included significant public contact.

Grievant contends that he meets both standards set forth in the specifications, as his education exceeds a one year vocational program, and he has performed clerical work with public contact for more than two years. The State asserts to the contrary that Grievant did not satisfy the minimum qualifications because he did not have two years of office clerical experience which included significant public contact.

There is no dispute that the Department of Motor Vehicles has the exclusive authority to create job descriptions, including establishing minimum qualifications for positions. *See Vermont State Employees' Association v. State of Vermont Agency of Human Services (re: Hiring Standards Policy)*, 30 VLRB 296, 330 (2009). 3 V.S.A. §310(b) states that "(i)t shall be the responsibility of the head of each department to provide current job descriptions for all positions within his or her department". The Vermont Supreme Court has cited this section to hold that "(t)he responsibility for creating job descriptions clearly is given to department heads", and that "job descriptions become valid for purposes of determining requisite employment qualifications when a department head communicates the descriptions to the Department of Personnel.". *In re Robert D'Orazio*, 139 Vt. 423, 426-427 (1981).

The pertinent consideration here, rather than the authority to establish minimum qualifications, is to interpret minimum qualifications consistent with the Contract's definition of minimum qualifications as "the lowest level of skills, experience and educational qualifications necessary for" entry into a position. *Vermont State Employees' Association v. State of Vermont Agency of Human Services (re: Hiring Standards Policy)*, 30 VLRB at 331. In interpreting a description of necessary experience in a position description, we act consistent with this

contractual definition by weighing whether the applicable experience furthers an applicant's ability to meet the competencies of the position.

In applying these standards to this case, we conclude that Grievant has not established that he met the Motor Vehicle Customer Service Specialist standard of "(c)ompletion of a one-year vocational/technical training program in business and office occupations or related area and one (1) year or more of office clerical experience that included significant public contact." He clearly met the office clerical experience requirement under this standard since it is undisputed that he had more than one year of such experience. However, it is too far of a stretch to hold that his Bachelor degree in Sociology was tantamount to completion of a "vocational/technical training program in business and office occupations or related area." The common understanding of what constitutes a vocational/technical training program in business and office occupations or a related area does not encompass an undergraduate degree in Sociology.

We next consider Grievant's contention that he met the alternative Motor Vehicle Customer Service Specialist standard of "(h)igh school graduation or equivalent and two (2) years or more of office clerical experience that included significant public contact." It is undisputed that Grievant met the educational requirement. Also, the State accepts that Grievant had 15 months of the applicable clerical experience based on two positions he held while attending college. The disagreement between the parties is whether Grievant should be credited with at least nine months of pertinent clerical experience for the five plus years he served as a correctional officer.

The State, in asserting contrary to Grievant that he should not be so credited for his correctional officer work, takes an unduly narrow view of applicable clerical experience in the modern workplace. The State construes "office clerical experience" to require that the work must



have been conducted in an office environment for 8 hours a day. This is an outdated application of clerical work in our technological age. In emphasizing the setting in which clerical work occurs rather than the tasks performed, the State is inappropriately deemphasizing whether the applicable experience furthers an applicant's ability to meet the competencies of the position. The evidence indicates that Grievant had experience as a correctional officer performing most of the clerical tasks credited as important by the State. Further, it is evident that the frequency with which he performed such tasks was equivalent to at least nine months of the five plus years he was a correctional officer.

Similarly, in determining that Grievant's correctional officer work did not involve clerical work with "significant public contact", the State did not adequately examine Grievant's tasks as a correctional officer and weigh his experience in meeting the competencies of the Motor Vehicle Customer Service Specialist position. It is evident that Grievant had significant public contact in performing such clerical work as handling telephone communications to or from a living unit, taking messages for inmates and distributing them, organizing and scheduling meetings between inmates and caseworkers, arranging appointments for inmates to receive services, handling inmate mail, communicating by email, and ordering supplies. Also, Grievant had obtained experience applicable to communicating with the public in the Motor Vehicle position through his communication skills training, and application of these skills, as a correctional officer. His experience interacting with, and addressing the behavior of, inmates furthered his ability to meet the requirements of dealing with the public in the Motor Vehicle position.

Our conclusion that Grievant met the education and experience minimum qualifications for the Motor Vehicle position is reinforced by the evidence that the Department of Motor

Vehicles hired an applicant in 2016 to fill the Motor Vehicle Customer Service Specialist position whom had significantly less office clerical experience listed on the employment application than Grievant. This indicates that, as applied, the minimum qualification requirements have been applied more flexibly than the position taken by the State in this matter.

In sum, we conclude that the State violated Article 66 of the Contract by denying Grievant the right to be recalled into the position of Motor Vehicle Customer Service Specialist. Grievant met the contractual requirements to be placed in the position: the position is at the same pay grade as the Correctional Officer position from which Grievant was separated due to an injury; Grievant met the minimum qualifications for the position; Grievant is able to perform the duties of the position; and Grievant indicated a desire and willingness for the job.

We turn to deciding an appropriate remedy. Grievant requests that we order the State to place Grievant in the position of Motor Vehicle Customer Service Specialist and to make him whole for all losses. In ordering a remedy, we endeavor to make Grievant whole for the contractual violation. To make Grievant whole is to place him in the position he would have been in had the contractual violation not occurred. Grievance of Relyea, 21 VLRB 115, 127 (1998). Grievance of Lowell, 15 VLRB 291, 339-340 (1992). If the contract violation had not occurred, Grievant would have been placed in the Motor Vehicle Customer Service Specialist position in early 2018.

Presumably, that vacancy has been filled and occupied for a substantial period of time. If that is the case, it would not be appropriate to order the position incumbent removed from the position. However, if the position has not been filled, or there is otherwise an existing vacancy in a Motor Vehicle Customer Service Specialist position that is within Grievant's parameters,



Grievant should be placed in the vacant position. If there is no existing vacancy, then Grievant should be selected to fill the next available vacancy in the position.

Further, the possibility that there may not be a vacancy in the Motor Vehicle Customer Service Specialist position for a significant period of time results in the need for an additional alternative remedy to make Grievant whole. Grievant should continue to have RIF reemployment rights as long as he is in his current position at Vermont Psychiatric Hospital for any vacant position which is to be filled at the same or lower paygrade of the Correctional Officer I position, in addition to a Motor Vehicle Customer Service Specialist position, for which he possesses the minimum qualifications, is able to perform the duties of the position, and is within his parameters.

Also, it is appropriate in making Grievant whole to grant him any back pay and benefits he has lost, or will lose, as a result of not being selected to fill the Motor Vehicle Customer Service Specialist position in early 2018.

#### ORDER

Based on the foregoing findings of fact and for the foregoing reasons, it is ordered:

1. The Grievance of Jacob Carnelli is sustained;
2. If the Motor Vehicle Customer Service Specialist vacancy existing in early 2018 has not been filled, or if there otherwise is an existing vacancy in a Motor Vehicle Customer Service Specialist position that is within Grievant's parameters and which the State is intending to fill, the State shall place Grievant in the vacant position. If there is no existing vacancy, then the State shall offer Grievant the next available vacancy in a Motor Vehicle Customer Service Specialist position which is within his parameters;

3. Grievant shall continue to have RIF reemployment rights as long as he is in his current position at Vermont Psychiatric Hospital for any vacant position which is to be filled at the same or lower paygrade of the Correctional Officer I position, in addition to a Motor Vehicle Customer Service Specialist position, for which he possesses the minimum qualifications, is able to perform the duties of the position, and is within his parameters; and
4. The State shall provide Grievant with any back pay and benefits he has lost, or will lose, as a result of not being selected to fill the Motor Vehicle Customer Service Specialist position in early 2018.

Dated this 23rd day of January, 2019, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

/s/ Richard W. Park

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Richard W. Park, Chairperson

/s/ Alan Willard

\_\_\_\_\_  
Alan Willard

/s/ David R. Boulanger

\_\_\_\_\_  
David R. Boulanger