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publication in the New York Reports.

No. 115
In the Matter of Thomas P.
O'Neill, et al.,
 Appellants-Respondents,
 v.
Ann Pfau, &c.,
 Respondent-Appellant.

David Schlachter, for appellants-respondents.
Lee Alan Adlerstein, for respondent-appellant.

MEMORANDUM:

The order of the Appellate Division should be affirmed,
without costs, and the certified question answered in the
affirmative.

In this proceeding pursuant to CPLR article 78,
petitioners challenge certain administrative orders of the Chief

Administrative Judge of the State of New York (CAJ) dated January 8, 2004 and December 22, 2004, and seek to compel the CAJ to pay New York State Court Officers employed in Suffolk County a salary increment reflecting a continuous service credit, in accordance with those orders. The January 2004 order abolished the position of Court Officer (a salary grade of JG-16) and replaced it with the new position of NYS Court Officer (a salary grade of JG-17). The CAJ treated the new title as a reclassification pursuant to Judiciary Law § 37 (5), rather than pursuant to § 37 (3) (c), or a reallocation pursuant to § 37 (11). As a result, petitioners did not receive the continuous service credit they would have received if the new title had been treated as a reallocation. The December 2004 order increased the salary grade of NYS Court Officer from JG-17 to JG-18, retroactive to January 8, 2004.

Petitioners allege that pursuant to Judiciary Law § 37, both orders should have been treated as reallocations, not reclassifications. They claim that the January 2004 order denied them continuous service credit towards longevity increments for time worked in their former title, and that the December 2004 order adjusting their salary grade to JG-18, which was retroactive to January 8, 2004 rather than prospective, deprived them of salary increases to which they were entitled.

Petitioners' challenge to the January 2004 order is time-barred. On April 7, 2004, employees whose title changed from Court Officer to NYS Court Officer received their first

paychecks reflecting the increase to JG-17, without continuous service credit. The order impacted petitioners on that date, and thus they were aggrieved on that date (see generally Matter of Edmead, 67 NY2d 714, 716 [1986]; see also Matter of Maurer v State Emerg. Mgt. Off., 196 Misc2d 750 [Sup Ct, Albany County 2003], affd 13 AD3d 751 [3d Dept 2003] [receipt of paycheck without overtime pay starts running of the statute of limitations for an article 78 proceeding to challenge failure to pay overtime]). Petitioners did not commence this proceeding until July 2005, more than one year after receiving their paychecks. Therefore, their claim regarding the January 2004 order is untimely (see CPLR 217).

Contrary to petitioners' assertion, the December 2004 order did not extend the four-month limitations period in which they were required to challenge the earlier order. The January 2004 order involved the CAJ's decision to eliminate the distinctions between officers in lower courts and superior courts, merge the titles of Court Officer and Senior Court Officer into the new title of NYS Court Officer, and create a new entry-level position. In contrast, the December 2004 order simply assigned a JG-18 grade for the new title of NYS Court Officer and thus "did not involve the sort of fresh, complete and unlimited examination into the merits as is necessary to extend the four-months limitations period" (Matter of Chisolm v Martinez, 277 AD2d 166, 167 [1st Dept 2000] [internal quotation

marks omitted]).

Finally, we agree with the Appellate Division that because the record contains no explanation or rationale for the retroactive application of the December 2004 order, petitioners have demonstrated their entitlement to the relief sought as to that order.

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Order affirmed, without costs, and certified question answered in the affirmative, in a memorandum. Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur. Chief Judge Lippman took no part.

Decided June 12, 2014