

Your letter indicates that you sent a notice of the proposed promotion to the Department of Civil Service and have received word to the effect that the promotion has not been approved and placing the veteran in the position of Assistant to the Chief pending open competitive examination.

The question which you have asked is whether you would have the power to make the promotion without Civil Service approval. The answer is no. Chapter 435 of the Laws of 1948, when it became effective on October 6, 1948, did nothing more than give tenure to the veterans in the positions then held by them. It is apparent that the promotion proposed is to a position in the classified service and that position must be filled in accordance with the requirements of the Civil Service law.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: THEODORE BACKES,
Deputy Attorney General.

TB:B

FEBRUARY 6, 1950.

HON. WILLARD G. WOELPER,
Administrative Director of the Courts,
State House Annex,
Trenton, New Jersey.

FORMAL OPINION—1950. No. 13.

DEAR MR. WOELPER:

In reply to your recent request with respect to the status of Paul S. Gallena, the following is the situation:

The budget request of the Clerk of the Court of Chancery for the fiscal year beginning July 1, 1948, included a line item for the position of Chief Clerk at an annual salary of \$6,750. The Governor's budget, however, excluded the entire line item. The Appropriations Act passed by the Legislature followed the recommendation of the Governor and again omitted the line item in its entirety (P. L. 48, Chapter 117). The budget for the fiscal year beginning July 1, 1949, made no provisions for a Chief Clerk in the office of the Clerk of the Superior Court other than for Mr. Rue Brearley.

Mr. Gallena may be paid only from moneys appropriated by the Legislature, and in view of the fact that the Appropriations Act for the fiscal year 1948-1949 failed to make such appropriation, there is obviously no claim on the part of Mr. Gallena for that period. The same is true for the fiscal year 1949-1950.

It is the view of this office that the only way that Mr. Gallena's claim can be recognized is by an act of the Legislature.

Very truly yours,

THEODORE D. PARSONS,
Attorney General.

By: HENRY F. SCHENK,
Deputy Attorney General.

HFS:aw