

B-31



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Atwood Davis,
Administrative Analyst 3 (PS1996G),
Department of Environmental
Protection

Examination Appeal

CSC Docket No. 2017-12

ISSUED: DEC 12 2016

(ABR)

Atwood Davis appeals the determination of the Division of Agency Services (Agency Services), which found that he did not meet the experience requirement for the promotional examination for Administrative Analyst 3 (PS1996G), Department of Environmental Protection (DEP).

The subject examination was announced with a closing date of January 21, 2016, and was open, in part, to applicants who possessed a Bachelor's degree and three years of experience involving the review, analysis, and evaluation of budget, organization, administrative practices, operational methods, management operations, or data processing applications, or any combination thereof, including responsibility for the recommendation, planning, and/or implementation of improvements in a business or government agency. The eligible list of one name promulgated on June 30, 2016 and expires on June 29, 2019. No certifications have been issued.

On his application, the appellant indicated that he possessed a Bachelor's degree. The appellant also indicated, in part, that he served provisionally as an Administrative Analyst 3 from December 2015 to the closing date of the examination; as an Environmental Specialist 2 from June 2010 to May 2013 and from February 2015 to December 2015; and as an Environmental Specialist 3 from May 2013 to February 2015. Agency Services credited the appellant with two months of applicable experience based upon his provisional service as an Administrative Analyst 2. However, it determined that the relevant duties the

appellant listed as an Environmental Specialist 2 and as a provisional Environmental Specialist 3 were out-of-title.

On appeal to the Civil Service Commission (Commission), the appellant argues that he possesses sufficient applicable experience through his service in the foregoing titles. The appellant claims that as an Environmental Specialist 2, he reviewed and analyzed the DEP's Bureau of Inspection and Review's (Bureau) operational procedures, administrative practices, and "NJEMS" data entry requirements and implemented improvements related to those subject areas. Additionally, the appellant states that he wrote internal day care guidance documents for the Bureau and assisted it with the initial development of its NJEMS data entry procedures. The appellant also claims that, as an Environmental Specialist 3, he reviewed the workload of staff and reallocated assignments based on that analysis, implemented improvements to the Bureau's standard operating procedures in order to maximize efficiency, and implemented improvements related to data entry protocols and administrative practices. The appellant submits letters of support from Mark J. Pedersen, Assistant Commissioner, DEP Site Remediation & Solid Waste Management Program (Site Remediation); Anthony Farro, Director, DEP Site Remediation; Frank A. DeFeo, Manager, DEP Office of Fiscal Services & Contract Administration; and Tina Layre, Supervisor, DEP Remediation Funding Source Unit. The appointing authority has submitted a memorandum which verifies that the appellant performed applicable out-of-title duties in the Environmental Specialist 2 and Environmental Specialist 3 titles.

Agency records indicate that the appellant continues to serve provisionally in the subject title.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants must meet all requirements specified in a promotional examination announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations may not use experience gained as a result of out-of-title work to satisfy eligibility requirements.

Agency Services correctly determined that the appellant was ineligible for the subject examination because he lacked the requisite amount of creditable experience as of the January 21, 2016 closing date. On appeal, the appellant contends that he performed applicable duties while serving in the Administrative Analyst 3, Environmental Specialist 2 and Environmental Specialist 3 titles. In support, the appellant submits letters of support from his supervisors and the appointing authority submits a memorandum confirming that the appellant performed applicable duties. However, the appellant's performance of applicable duties while serving in the Environmental Specialist 2 and Environmental

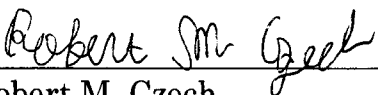
Specialist 3 titles would be considered out-of-title work. Ordinarily, the Commission looks to whether or not “good cause” has been established in determining whether to grant or deny appeals involving out-of-title work. Generally, the Commission finds good cause where the record evidences that the examination situation is not competitive, no third parties are adversely impacted, and the appointing authority wishes to effect a permanent appointment and verifies that the appellant has performed the relevant duties which otherwise satisfy the eligibility requirements. See *In the Matter of John Cipriano, et al.* (MSB, decided April 21, 2004). In the instant matter, the examination situation is not competitive, as only one individual was initially found eligible.¹ Moreover, the Commission finds that no third parties will be adversely impacted. Further, the Commission notes that the dual purpose of the Civil Service system is to ensure efficient public service for State and local governments and to provide appointment and advancement opportunities to Civil Service employees based on their merit and abilities. These interests are best served when more, rather than fewer, individuals are presented with employment opportunities. See *Communications Workers of America v. New Jersey Department of Personnel*, 154 N.J. 121 (1998). Finally, the appellant continues to serve provisionally in the subject title. As such, good cause exists in this particular case to accept the appellant’s out-of-title work experience, for eligibility purposes only, and admit him to the examination.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant’s application be processed for prospective employment opportunities only.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 7TH DAY OF DECEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

¹ In *In the Matter of Mary Stahl* (CSC, decided December 7, 2016), the Commission also accepted the out-of-title experience of Ms. Stahl and admitted her to the subject examination.

Inquiries
and
Correspondence

Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Atwood Davis
Deni Gaskill
Kelly Glenn
Records Center