

B-19



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of George DeNobile,
Director of Purchasing (PM0499U),
Borough of Lodi

Examination Appeal

CSC Docket No. 2017-34

ISSUED: **FEB 10 2017** (ABR)

George DeNobile appeals the determination of the Division of Agency Services (Agency Services), which found that, per the substitution clause for education, he did not meet the experience requirement for the promotional examination for Director of Purchasing (PM0499U), Borough of Lodi (Lodi).

The subject examination was announced with a closing date of March 21, 2016 and was open to applicants with a Bachelor's degree and five years of experience (including three years in a supervisory capacity) in procurement operations involving the preparation of purchase specifications; purchase of equipment, materials and supplies; review of contracts and bids; inspection of commodities; and inventory control. Applicants who did not possess the required education could substitute experience as indicated on a year for year basis, with 30 credit hours being equal to one year of the indicated procurement operations experience. It is noted that the appellant was the only applicant for the subject promotional examination, which was cancelled on July 3, 2016, as he was deemed ineligible.

On his application, the appellant stated that he possessed 44 semester hour credits. Therefore, pursuant to the substitution clause for education, he needed to possess seven years and seven months of the required experience. The appellant also indicated on his application that he served as a Director of Purchasing from January 1988 to the closing date of the examination (March 2016). However, a review of the appellant's County and Municipal Personnel System (CAMPS) record indicates, in relevant part, that he served provisionally as a Director of Purchasing

from December 2015 to the closing date of the examination; as a Purchasing Agent from September 2012 to December 2015 and from July 1990 to September 1991; and as a Purchasing Assistant from October 1988 to July 1990. Agency Services credited the appellant with four years and ten months of applicable experience based on his service as a provisional Director of Purchasing and as a Purchasing Agent. However, Agency Services deemed him ineligible for the subject examination because he lacked an additional two years and nine months of applicable experience.

On appeal to the Civil Service Commission (Commission), the appellant argues that he possesses sufficient applicable experience for the subject examination and claims, in relevant part, that as a Purchasing Assistant, he reviewed purchase requisitions; placed and processed all purchase orders; reviewed, signed and processed all contracts, lease agreements and maintenance agreements; monitored encumbrance levels and departmental budgets; and helped draft specifications for equipment procurement bids.

The appointing authority, in a letter of support, verifies that the appellant was assigned the above-referenced duties as a Purchasing Assistant and it contends that the appellant possesses sufficient applicable experience for the subject examination.

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 applicants for promotional examinations generally may not use experience gained as a result of out-of-title work to satisfy eligibility requirements. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause shown in a particular situation.

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 March 21, 2016, closing date. Since the record demonstrated that the appellant possessed 44 semester credit hours, pursuant to the examination announcement's substitution clause for education, the appellant needed to possess seven years and seven months of applicable experience for the subject examination. As noted above, the appellant was credited with four years and ten months of applicable experience based upon his service as a provisional Director of Purchasing and as a Purchasing Agent. On appeal, the appellant claims, in relevant part, that he performed relevant duties while serving in the Purchasing Assistant title.

However, the appellant's performance of applicable duties while serving as a Purchasing Assistant 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). Here, the record evidences that the examination situation is not competitive since the examination was cancelled after the appellant, who was the only applicant, was deemed ineligible. Additionally, the appellant continues to serve provisionally in the subject title. Moreover, as noted above, the appointing authority has verified that the appellant performed relevant duties while serving in the title of Purchasing Assistant. As such, good cause exists in this particular case to accept the appellant's out-of-title work experience, for eligibility purposes only. Additionally, the appellant has completed 11 additional months of provisional service in the title of Director of Purchasing since the closing date. Where a list resulting from an examination is not competitive, and a provisional candidate gained enough additional experience after the closing date to satisfy experience requirement, the Commission has found good cause to relax the provisions of *N.J.A.C. 4A:4-2.6(a)2* and accept an appellant's provisional experience after the closing date, for eligibility purposes only, and admit him or her to an examination. See, e.g., *In the Matter of Anthony Gowers* (MSB, decided September 6, 2006); *In the Matter of Patricia Mulford* (MSB, decided August 11, 2004). Given the non-competitive examination situation in the instant matter, good cause exists to accept the appellant's post-closing date provisional experience, for eligibility purposes only, and admit him to the subject examination.

ORDER

Therefore, it is ordered that this appeal be granted, the cancellation of the examination be rescinded and the appellant's application be processed.

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 8TH DAY OF FEBRUARY, 2017

Robert M. Czech

Robert M. Czech
Chairperson
Civil Service Commission

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: George DeNobile
Vincent J. Caruso
Kelly Glenn
Records Center