

CSC
B-34



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Yvonne Hernandez,
Personnel Assistant 2 Employee
Relations (PS6821G), Department of
Environmental Protection

Examination Appeal

CSC Docket No. 2014-3166

ISSUED: **OCT 01 2014** (HS)

Yvonne Hernandez appeals the determination of the Division of Selection Services (Selection Services), which found that, per the substitution clause for education, she did not meet the experience requirement for the promotional examination for Personnel Assistant 2 Employee Relations (PS6821G), Department of Environmental Protection.

The subject examination announcement was issued with a closing date of January 21, 2014. The examination was open, in part, to employees in the competitive division who had an aggregate of one year of continuous permanent service as of the closing date in any competitive title and met the listed requirements. These requirements included graduation from an accredited college or university with a Bachelor's degree and three years of technical work experience in the administration of negotiated contracts, grievance and disciplinary processing programs. Applicants who did not possess the required education could substitute, in addition to the required experience indicated, applicable experience on a year for year basis, with 30 semester hour credits being equal to one year of experience. A Master's degree in business administration, public administration, personnel, labor relations, economics, finance, or accounting could be substituted for one year of the required experience. It is noted that the appellant was one of two applicants for the subject examination. The resulting eligible list, which contained only one name, promulgated on June 5, 2014 and expires June 4, 2017. There are no active eligibles on the list.

On her application, the appellant did not indicate possession of a Bachelor's degree. Therefore, pursuant to the substitution clause for education, the appellant needed seven years of the indicated experience. The appellant indicated possession of an Associate's degree, consisting of 90 credits, from Kaplan University and possession of 44 credits from Thomas Edison State College. She also indicated that she had served as a Personnel Assistant 2 Employee Relations from September 2012 through the closing date (January 2014);¹ as a Personnel Assistant 3 Employee Relations from April 2011 through September 2012; as a Technical Assistant Personnel from October 2005 through April 2011; as a Legal Secretary 2 from October 2001 through October 2005; and as a Confidential Secretary to Warden from June 2000 through October 2001. The appellant indicated that as a Personnel Assistant 2 Employee Relations, she conducted disciplinary and grievance hearings; conducted investigations concerning employee relations problems including harassment and workplace violence complaints; prepared detailed reports containing findings, conclusions and recommendations for investigations conducted; reviewed disciplinary action recommendations and prepared disciplinary action charges in accordance with regulations and contract and non-contract provisions; provided advice and guidance on employee relations and contractual matters to agency representatives; interacted with corresponding union representatives and the Governor's Office of Employee Relations to address employee relations issues as they arise; coordinated Employee Advisory Service (EAS) requests from divisions or employees; made appointments for EAS referrals; provided management/supervisor counseling to divisions experiencing performance issues with individual employees or labor relations issues; and coordinated the clothing maintenance allowance. The duties that the appellant indicated for her Personnel Assistant 3 Employee Relations position are substantially similar to the duties she indicated for her Personnel Assistant 2 Employee Relations position.

Selection Services credited the appellant with possession of 105 college credits, the maximum allowable for an incomplete Bachelor's degree. The 105 college credits were equivalent to three years and six months of experience. Selection Services also credited the appellant with two years and 10 months of experience in the positions of Personnel Assistant 2 Employee Relations and Personnel Assistant 3 Employee Relations. None of the appellant's other experience was found applicable. Based on her college credits and experience, the appellant was credited with a total of six years and four months of applicable experience. Thus, she lacked eight months of applicable experience.

On appeal, the appellant argues that she performed applicable out-of-title duties while serving as a Technical Assistant Personnel from October 2005 through

¹ Agency records indicate that the appellant served as a provisional Personnel Assistant 2 from September 22, 2012 through May 3, 2013. The appellant was provisionally appointed to the title of Personnel Assistant 2 Employee Relations effective May 4, 2013, and she continues to serve in this capacity.

April 2011 and that this experience thereby should be credited. The appellant also submits a copy of a June 2011 classification determination finding that the appellant was performing duties consistent with the Personnel Assistant 3 Employee Relations title.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)2 provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause shown in a particular situation.

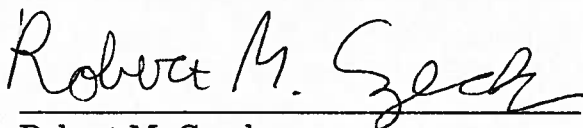
In this matter, Selection Services correctly determined that the appellant was ineligible for the subject examination because, per the substitution clause for education, she did not meet the experience requirement as of the January 21, 2014 closing date. However, the appellant was provisionally appointed to the title under test effective May 4, 2013 and continues to serve provisionally in that title. The Civil Service Commission finds that, for examination eligibility purposes, she has been performing the duties of the title under test since that date. Thus, the appellant now possesses enough applicable experience based on this service. Additionally, the record evidences that the examination situation is not competitive since there were only two applicants. Moreover, there are no active eligibles on the eligible list. Under these circumstances, good cause exists to relax the provisions of *N.J.A.C.* 4A:4-2.6(a)2 and accept the appellant's provisional experience after the closing date, for eligibility purposes only, and admit her to the examination.

ORDER

Therefore, it is ordered that this appeal be granted 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 1ST DAY OF OCTOBER, 2014



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and
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