

CSC  
B-37



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matters of Anthony Cirino and  
Shawn Turner, Heavy Equipment  
Operator (PS6425T), Department of  
Transportation

Examination Appeals

CSC Docket Nos. 2015-107 & 2015-215

ISSUED: ~~OCT~~ 22 2014 (EG)

Anthony Cirino and Shawn Turner appeal their scores of the performance test for Heavy Equipment Operator (PS6425T), Department of Transportation. Since these appeals address similar issues, they have been consolidated herein.

The subject performance examination was conducted on May 28, 2014. A total of 28 applicants applied for the subject performance examination that resulted in an employment roster of 16 eligibles with an expiration date of July 2, 2017. It is noted that four candidates failed the examination including Mr. Cirino. Mr. Turner passed the examination with a score of 88.01 and ranked #6.

On appeal, Mr. Cirino initially requests to know his rating on each of the three pieces of equipment tested. Additionally, he argues that the equipment he trained on was not the same equipment used for the examination and was not equipment used in his work area. Mr. Cirino contends that the wrecker he trained on used straps while during the examination he was required to use chains. He also asserts that the assessor at one point told him to stop hooking up the truck. In this regard, he claims that he was not told of a time limit and that he witnessed some people working on a wrecker for over an hour. Additionally, Mr. Cirino argues that he had no training on the tractor trailer at all as no date was scheduled for him. Finally, he alleges that the assessors were not properly trained.

Mr. Turner asserts that he would like to know how another applicant who failed to complete a portion of the wrecker examination had the same rank as he does when he completed all of the examination. Additionally, he contends that

applicants found ineligible by the Civil Service Commission (Commission) were allowed to take the examination by the Department of Transportation. Further, Mr. Turner claims that the employees who had taken the examination before him had shut down the gradall excavator after getting stuck in the mud. In this regard, he argues that he performed the best he could on the gradall excavator and that his score should not reflect the error of the previous applicants. Moreover, he contends that he properly secured the tow vehicle to the wrecker. Finally, Mr. Turner argues that he properly used his mirrors and windows pursuant to the New Jersey Motor Vehicle Commission's Commercial Driver's License Manual.

### CONCLUSION

*N.J.A.C. 4A:4-6.3(b)* provides that in examination and selection appeals, the appellant shall have the burden of proof.

A job analysis was conducted by Subject Matter Experts (SMEs), individuals who are most familiar with the duties of an Equipment Operator. The results of this analysis identified the underlying knowledge, skills and abilities needed in order to successfully perform the duties of the title. The equipment tested and the scoring categories on the examination were created to test the identified knowledge, skills and abilities. It was determined that candidate proficiency in the operation of a gradall excavator, tractor trailer, and wrecker were areas to be examined. Thus, the equipment utilized for this test was designed to examine relevant job characteristics as identified in the job specification. Candidates were rated for their performance on each piece of equipment. Each candidate could score up to 100 points on each piece of equipment and deductions were made based on observations by trained assessors.

Further, as a result of the SMEs' analysis, scoring categories on the examination were created. In this regard, it has been well established in prior Civil Service Commission (Commission) decisions that an examination cannot be geared to the specific duties of a particular position or posting. The test content must fairly test all candidates who meet the requirements to be eligible to take the examination. Thus, this examination tested the duties of the title, not the duties of specific positions and/or maintenance crews or specific makes or models of each piece of equipment. *See, In the Matter of Joseph Abbott, et al.*, (MSB, decided March 13, 2002). Specifically, the SMEs identified the scoring categories for the gradall excavator, tractor trailer, and wrecker used in this examination. Thus, notwithstanding the variations between differing brands and/or age of the equipment, candidates for this examination were only evaluated on the SME approved performance criteria for each piece of equipment.

In the instant matter, Mr. Cirino requested his score on each of equipment. Initially, the Commission notes that Mr. Cirino could have reviewed his

examination pursuant to *N.J.A.C. 4A:4-6.4*. A review of official records indicates that out of a possible 100 points on each piece of equipment, Mr. Cirino scored 70 points on the gradall excavator, 90 points on the tractor trailer, and 0 on the wrecker. With regard to Mr. Cirino's assertions concerning training, this agency does not review, monitor, or coordinate these training activities with the Department of Transportation. Issues concerning the training practices of the Department of Transportation are outside the scope of review for this appeal. With regard to concerns about the assessors and their performance, the Commission notes that all assessors were selected for this examination based upon specific education and experience criteria which were related to the ability to administer performance examinations of this nature. Additionally, a multi-day training program is administered to assessors that stresses proficiency and reliability in examination scoring and administration. Specifically, they are trained to make specific and objective observations of participant behavior and report on only what they can see and hear in a candidate's performance. Assessor training is reviewed to ensure that assessors with the highest reliability are chosen.

Further, while Mr. Turner claims that another individual did not complete a section of the examination and that individuals were permitted to take the examination after being found ineligible, he fails to provide any names or evidence in support of these claims. With regard to his contention that he properly operated his equipment and should not have had points deducted, he provides no facts or evidence to support such a claim. The appellant's mere belief that he performed these actions correctly is insufficient evidence to overcome the trained assessors' observations. Moreover, Mr. Turner has failed to indicate exactly how the gradall excavator having been in the mud specifically impacted his score on that portion of the examination.

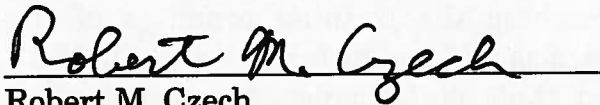
A thorough review of the record indicates that the determination of the Division of Selection Services was proper and consistent with Civil Service Commission regulations, and that appellants have not met their burden of proof in this matter.

#### ORDER

Therefore, it is ordered that these appeals be denied.

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 22ND DAY OF OCTOBER, 2014**



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