

B-22



STATE OF NEW JERSEY

In the Matter of William Everett,
Environmental Specialist 4
(PS6840G), Department of
Environmental Protection

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-466

Examination Appeal

ISSUED: NOV 21 2014 (WR)

William Everett, represented by Jeffrey Resnick, Esq., appeals the determination of the Division of Selection Services (Selection Services) that he did not meet the education requirement for the promotional examination for Environmental Specialist 4 (PS6840G), Department of Environmental Protection (DEP).

The examination for Environmental Specialist 4 (PS6840G), Department of Environmental Protection was announced with a closing date of February 21, 2014 and was open, in part, to individuals who possessed a Bachelor's degree in one of the Physical Sciences, Environmental Sciences/Studies, Chemical Sciences, Biological Sciences, Environmental Planning, Physical Geography or in Civil Engineering, Sanitary Engineering, Chemical Engineering, Environmental Engineering, Mechanical Engineering, Agricultural Engineering, Mining Engineering, Industrial Engineering, or Bio-resource Engineering. Applicants were also required to possess four years of experience in environmental control work including field investigations, inspection, and preparing reports on the environment or the preparation or review of Environmental Impact Statements, one year of which shall have included supervisory responsibilities including preparation of employee evaluations of staff involved in technical or scientific work. It is noted that an eligible list of two names promulgated on August 7, 2014 and expires on August 6, 2017. No certifications have yet been issued.

In his application, Mr. Everett indicated that he possessed an Associate's degree in Arts¹ and a Bachelor's degree in History and has worked as an Environmental Specialist 4, an Investigator 1, an Investigator 2, an Investigator 3, and a County Park Ranger. Selection Services found that Mr. Everett lacked the required education and determined him ineligible for the subject examination. However, it is noted that Selection Services found that Mr. Everett did meet the experience requirements for the subject examination.

On appeal to the Civil Service Commission (Commission), Mr. Everett first notes that as a result of an Executive Reorganization Plan in 1991, his position as an Investigator was transferred from the New Jersey Board of Public Utilities (BPU), Division of Solid Waste to DEP. He states that "the title of Investigator was kept intact and transferred into DEP unchanged."² Thus, Mr. Everett claims that prior to serving in the subject title provisionally, he served as an Investigator 1, but believed he was performing the duties of a Supervisor of Investigations. He states that he filed a reclassification request with the Division of Classification and Personnel Management (CPM), who determined that he was performing the duties of the subject title.³ Mr. Everett contends that the duties he currently performs, which "include supervising and managing the professional staff that inspect the solid waste concerns of DEP regulated facilities," are "the same whether he is called an Investigator or an Environmental Specialist." He asserts that the only difference between the two titles is that an Environmental Specialist "requires a Bachelor of Science Degree with a major in Natural Science." Conceding that he does not possess such a degree, Mr. Everett requests that he should either be classified as a Supervisor of Investigations or be exempted from the subject education requirements because "it is not reasonable to compel [him] to have this degree in light of his background, knowledge, and experience."

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional announcement by the closing date. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes. *N.J.A.C.* 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

¹ Mr. Everett indicated on appeal that he possesses an Associate's in Science degree.

² The Commission observes that DEP has continued to use the Investigator title.

³ In its August 6, 2013 decision, CPM found that the title of Supervisor of Investigations was inappropriate as Mr. Everett's duties did not reflect the duties and level of responsibility of that title. Rather it determined that the title of Environmental Specialist 4 was a more appropriate title. It is noted that although Mr. Everett had appealed the Classification determination, he subsequently withdrew his appeal.

To be eligible for the subject examination, applicants, in relevant part, had to possess a Bachelor's degree in one of the aforementioned fields. Selection Services determined that Mr. Everett met the experience requirements, but was ineligible because he lacked a Bachelor's degree in one of the aforementioned areas. On appeal, Mr. Everett requests that he be exempted from the subject education requirement based on his years of service performing the required duties. The record indicates that Mr. Everett has been performing the duties of the subject title since at least February 9, 2013. Moreover, the record reveals that Mr. Everett has been successfully performing relevant duties since his transfer from the BPU in 1991. Additionally, given that Mr. Everett's position was transferred to DEP and DEP continues to use the Investigator title series, it would be unfair to deny Mr. Everett and other similarly situated employees the opportunity for promotion.⁴ Lastly, an incomplete list exists as only two applicants were admitted to the examination. Accordingly, good cause exists to admit Mr. Everett to the Environmental Specialist 4 (PS6840G), Department of Environmental Protection examination.

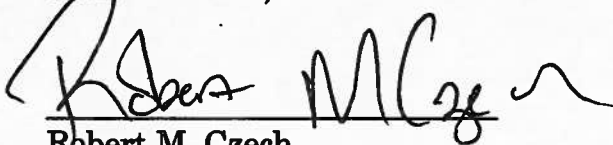
This decision is limited to the particular circumstances of this matter and does not set a precedent in any other matter.

ORDER

Therefore, it is ordered that this appeal be granted.

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 DAY OF, 2014



Robert M. Czech
Chairperson
Civil Service Commission

⁴ The record reveals that James Scully, an Investigator 1, also applied for the subject examination but was determined ineligible because he possessed neither the required education nor the required supervisory experience. A review of his application reveals that Mr. Scully does not possess the required supervisory experience. Therefore, even if the education requirement is waived, Mr. Scully is nevertheless ineligible for the subject examination.

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