



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Leon Harasym, *et al.*, Assistant Supervisor, Public Works (PM0633S), Gloucester Township

Examination Appeals

CSC Docket Nos. 2015-794, 2015-931 and 2015-821

ISSUED: ~~DEC 19 2014~~ (SLK)

Leon Harasym, Michael Jones and Robert Tyciak appeal the determinations of the Division of Selection Services¹ (Selection Services) that they did not meet the experience requirements for the promotional examination for Assistant Supervisor, Public Works (PM0633S), Gloucester Township. These appeals have been consolidated due to common issues presented.

The examination at issue was announced with specific requirements that had to be met as of the May 21, 2014 closing date (see attached). A total of nine employees² applied for the subject examination that resulted in a list of five eligibles with an expiration date of September 17, 2017. It is noted that certification PL141190 was issued containing the names of the five eligibles³ and has a disposition due date of December 22, 2014.

On Mr. Harasym's application, he indicated that he was provisionally serving in the title under test from March 2014 to the May 21, 2014 closing date, a Truck Driver from November 2011 to March 2014, a Laborer 1 from October 2002 to November 2011, a Job Manager/Site Supervisor for Messina Construction from April 1999 to August 2002, a Landscaper/Service-Maintenance Man for Messina

¹ Now known as the Division of Agency Services.

² There are four employees provisionally serving in the subject title and all four applied for the subject examination. This included the three appellants and the fourth provisional employee, Robert Morris, Jr., whose name is ranked first, tied with another employee, on Certification PL141190.

³ Since there are currently four employees provisionally serving in the subject title and only five eligibles on the certification, the list is incomplete under *N.J.A.C. 4A:4-4.2(2)*.

Construction from April 1998 to April 1999, and a Night/Weekend Supervisor (Detailer) for M & C Detailing from October 1995 to November 1998. Selection Services credited him with two years and seven months of experience based on his provisional experience in the subject title and his experience as a Truck Driver, but determined that the remainder of his experience was not applicable. Therefore, Selection Services determined that Mr. Harasym lacked five months of experience.

On Mr. Jones' application, he indicated that he was provisionally serving in the subject title from March 2014 to the May 21, 2014 closing date, a Truck Driver from October 2010 to March 2014, a Fire Commissioner for Gloucester Township Fire District 4 from March 2008 to March 2014, and a Laborer 1 from January 2003 to October 2010. Personnel records indicate that he was provisionally serving in the title under test from April 2014 to the May 21, 2014 closing date, a Truck Driver from November 2011 to April 2014, and a Laborer 1 from November 2002 to November 2011. Selection Services credited him with two years and seven months of experience based on his provisional experience in the subject title and his experience as a Truck Driver, but determined that the remainder of his experience was not applicable. Therefore, Selection Services determined that Mr. Jones lacked five months of experience.

On Mr. Tyciak's application, he indicated that he was a Senior Public Works Repairer from February 1985 to the May 21, 2014 closing date. Personnel records indicate that he was provisionally serving in the subject title from March 2014 to the May 21, 2014 closing date, a Senior Maintenance Repairer from September 1994 to March 2014, a Maintenance Repairer from March 1992 to September 1994, a Truck Driver from December 1991 to March 1992, a Maintenance Repairer from January 1991 to December 1991, and a Laborer 1 from February 1985 to January 1991. Selection Services credited him with three months of experience based on his provisional experience in the subject title, but determined that the remainder of his experience was out of title work. Therefore, Selection Services determined that Mr. Tyciak lacked two years and nine months of experience.

On appeal, Mr. Harasym states that as a Job Manager/Site Supervisor for Messina Construction for over three years, he was involved in all aspects of construction including both supervising responsibilities and physically performing all the duties that the construction workers performed including operating heavy equipment/machinery. As a Laborer 1 for the appointing authority from October 2002 until November 2011, he used various types of construction and maintenance equipment and machinery. He asserts that as a Laborer 1 he worked out of title four months per year for three years performing maintenance works such as park equipment installation and maintenance repair, asphalt repair, drainage repair and maintenance, fence installation and repair, guard rail installation, concrete work, and metal roofing, framing, and siding. Further, as a Truck Driver for one year, he

drove dump trucks, street sweepers, snow plows and salters, and trucks with trailers that carried all types of equipment.

Mr. Jones states that as a Laborer 1 for over 7 years, he was assigned to the Roads Division and was on the Sewer Repair Crew. As such, he provides that he used various tools and equipment to repair, clean, and replace storm sewer boxes and storm water piping. As a Truck Driver for over three years, Mr. Jones maintains that he performed the same tasks as a Laborer 1, but was also tasked with driving the equipment to the jobsite. Mr. Jones also highlights his provisional experience in the title under test.

Mr. Tyciak indicates that as a Laborer 1, he worked for the Public Works Department maintaining fields and fences, paving, working on storm water pipes, and maintaining retention ponds. Mr. Tyciak provides that for almost four years on the maintenance crew he performed a variety of tasks such as maintaining walls, painting, plumbing, HVAC maintenance, roofing, electrical work, maintaining fans, windows, and doors, flooring, concrete work, and other maintenance, installation, and repair work for various buildings. Mr. Tyciak represents that as a Truck Driver for three months he hauled materials and machinery and also plowed snow. Mr. Tyciak indicates that as a Senior Maintenance Worker for over 19 years, he supervised a work crew and made sure that contractors performed their work safely and by code. He also states that he utilized various heavy machinery over the last 25 years and that he is currently in charge of many buildings, electric and water services, the sewer systems, injector pumps, irrigation systems, traffic light intersections, and anything else that pertains to the mechanical building part and structure.

The appointing authority has also submitted a letter on behalf of all of the appellants. Specifically, it states that a Laborer 1 often performs the duties of a Truck Driver, Sewer Repairer, Maintenance Repairer, or Equipment Operator and that as long as this out of title work does not represent more than 50% of the employee's time, it is not considered a promotion. It concurs with the duties and qualifications that the appellants have described on appeal.

Karl R. Walko, President, CWA Local 1014 representing Gloucester Township Public Works employees, intervened in this matter and questions if Civil Service law or rules require the appointing authority to assign duties consistent with the title certified during the pendency of an eligibility appeal only to those individuals on the eligible list. Further, he asks if the appointing authority's assignments of such duties are limited by the ranking of the eligibles.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date.

In the matter at hand, all of the appellants should be admitted to the subject examination.

In order to establish eligibility for the title under test, applicants were required to possess three years of experience in the construction, maintenance and repair of streets, sewer, water, sanitation or other public works facilities or similar heavy construction. Mr. Harasym indicated that he was a Laborer 1 for the Public Works Department for over 9 years. Further, he indicated that he used various machines and equipment and that in this position his assignments included park equipment installation and repair, asphalt repair, sewer repair, fence installation and repair, installation of metal roofing, sliding, and framing, and concrete. In reference to Mr. Jones, his application indicates that he was a Laborer 1 for over 7 years for the Public Works Department where he worked on the maintenance of roads and storm water maintenance. Mr. Tyciak's application indicates that he has worked for the Public Works Department for over 30 years involving the repair/maintenance of water pipes, mains, valves, electrical services, and large vehicle operation. Mr. Tyciak's personnel record indicates that he was a Laborer 1 for over six years. Additionally, the appointing authority confirmed that the appellants performed these duties. In reviewing the examples of work under the job specification for a Laborer 1, an incumbent may use equipment to repair streets and roads, valves, fittings, pipe sections, and other public works. In other words, each of the appellants has over three years of in-title experience as a Laborer 1 and in the Maintenance Repairer title series in the required areas and therefore should be admitted to the subject examination.

In reference to CWA Local 1014's concerns, *N.J.A.C.* 4A:4-6.3(c) states that unless ordered by the Commission, the filing of an appeal shall not affect the promulgation of a list, a certification, or an appointment. Thus, during the pendency of the appeal process, an appointing authority should assign duties or make an appointment consistent with the title certified first to interested eligibles on the certification by its disposition due date. However, as noted earlier, the subject certification is incomplete since there are four provisional appointees and only five names listed on the certification. *N.J.A.C.* 4A:4-4.2(c)2(i) states that when fewer than three interested eligibles are certified and no provisional currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; make a provisional appointment from the list; make a provisional appointment of another qualified person if no eligible on the list is interested; or vacate the position or title. Therefore, since three of the provisional appointees were not listed on the certification, the appointing authority may

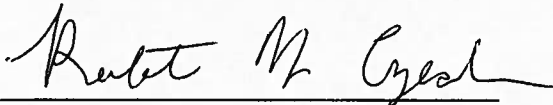
exercise any of these options by the disposition due date of the certification. Additionally, one of the eligibles whose name remained on the incomplete certification could "assert the rule" to request that he be appointed or his name be certified for appointment in accordance with *N.J.A.C. 4A:4-4.2(c)2ii*. However, in this case, the outstanding certification is not due until December 22, 2014 and the Commission has determined that each of the appellants should have been admitted to the examination. Therefore, it is appropriate to hold the subject certification until such time as the appellants' applications are scored consistent with this decision and their names are added to the outstanding certification for current employment opportunities.

ORDER

Therefore, it is ordered that these appeals be granted and the appellants' applications be scored consistent with this decision for current employment opportunities. It is also ordered that certification PL141190 be held until the appellants' applications are scored and after the appellants names are added to the certification, that the appointing authority dispose of it within 30 days of its issuance.

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 17th DAY OF DECEMBER, 2014



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Chairperson
Civil Service Commission

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and
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Attachment

**c: Leon Harasym
Michael Jones
Robert Tyciak
David Mayer
Karl R. Walko
Kelly Glenn
Kenneth Connolly
Joseph Gambino**

NEW JERSEY CIVIL SERVICE COMMISSION
COUNTY AND MUNICIPAL GOVERNMENT SERVICES
PROMOTIONAL ANNOUNCEMENT



[Click here to file Online](#) Print
\$25.00 PROCESSING FEE REQUIRED
Make Check/Money Order Payable to NJCSC

SYMBOL: PM0633S

TITLE: ASSISTANT SUPERVISOR PUBLIC WORKS

ISSUE DATE: May 01, 2014

TITLE CODE: 06651/ EBRDR2

JURISDICTION: GLOUCESTER TWP

DEPARTMENT: PUBLIC WORKS

WEIGHT CODE: *

SALARY: \$ 36.12 / Per Hour

CLOSING DATE: May 21, 2014

JURISDICTION CODE: C04150007

**ONLY ON LINE APPLICATIONS
WILL BE ACCEPTED
FOR THIS ANNOUNCEMENT**

Open to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date and are currently serving in the following title(s):

Senior Public Works Repairer 03541@

Or to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date in any competitive title and meet the requirements listed below:

Experience: Three (3) years of experience in the construction, maintenance and repair of streets, sewer, water, sanitation or other public works facilities or similar heavy construction.

License: Appointees will be required to possess a driver's license valid in New Jersey only if the operation of a vehicle, rather than employee mobility, is necessary to perform the essential duties of the position.

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed must be met as of the closing date, including assignment to jurisdiction/department, and satisfying the permanent status requirement.
2. YOU MUST COMPLETE YOUR APPLICATION IN DETAIL. Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full-time and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill both full-time and part-time positions. If 35- and 40-hour positions are used within the department, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.
5. In accordance with Public Law 2010 c.26, Veterans pay a reduced application fee of \$15.00 if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES. (i.e. Police, Fire, Corrections and Sheriff).
6. If you are having difficulty submitting your application online, technical support and customer care are available during regular business hours, 8:00 a.m. to 4:00 p.m. EST, Monday - Friday, excluding holidays and emergency closings. Please Email: OAS.support@csc.state.nj.us or call (609) 292-4144. Please note that application support requests received outside of regular business hours on the closing date will not change the application filing deadline, so PLEASE FILE EARLY.

DPF-256A * Revised 03/09