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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Edward Oravsky, Jr.,
General Supervisor, Parks
(PM0199S), Hamilton Township

CSC Docket No. 2015-79

Examination Appeal

ISSUED: DEC 05 2014 (DASV)

Edward Oravsky, Jr., appeals the determination of the Division of Selection Services that he did not meet the experience requirement for the promotional examination for General Supervisor, Parks (PM0199S), Hamilton Township.

The subject examination was announced with a closing date of February 21, 2014 and open to employees who possessed an aggregate of one year of continuous permanent service as of the closing date in any competitive title and three years of experience involving the care and maintenance of large tracts of grounds, including planting and care of shrubbery/flowers and use of grounds by a considerable number of people, one year of which shall have been in a supervisory capacity. It is noted that seven applicants, including the appellant, filed for the examination. Three employees were found eligible and appeared on the resulting eligible list (PS2169J), which promulgated on July 3, 2014 and expires on January 2, 2017. A certification of the list was issued on July 8, 2014, and one eligible was appointed effective the same date.

A review of the appellant's application and personnel records indicates that he has been serving as a Supervisor, Greenhouse, since July 2001. Prior to that position, he served as a Horticulturist with Hamilton Township from February 1989 to July 2001. The appellant listed the following duties as a Supervisor, Greenhouse:

Supervises, instructs/teaches, and works with employees in all aspects [of] growing and care of shrubbery, flowers, and trees throughout Hamilton Township (includes parks, schools and landscaping beds). Login attendant and daily work assignments for staff. Acts as general supervisor (from 2010 to present) when the general supervisor is out. Oversees the pesticide program for Hamilton Township. Inspect[s] community landscape problems through citizens' requests . . . Major contributor in planning, growing and coordinating of plant designs at special events in the Township throughout the year. Confers with staff and outside vendors to purchase plants and material in order to plan activities for the production and growing of the stock as well as for displaying it in special exhibits to the public.

As a Horticulturist, the appellant indicated that he "[p]lanned, coordinated, supervised, and worked on projects involved with cultivating, propagating, displaying and designing of flowers, shrubs and ornamental trees. Researched problems associated with storage, production, and handling and care of the plants and determination of best methods for spraying and general care and maintenance. Inspected areas for conditions to determine best locations for specific shrubbery, trees and flowerbeds."

Upon its review, the Division of Selection Services did not find any of the appellant's experience applicable. Therefore, it determined that he was ineligible for the subject examination.

On appeal to the Civil Service Commission (Commission), the appellant states that he has over 40 years of professional experience in the care and maintenance of parks and large tracts of land, which includes the planting and care of shrubbery, trees, flowers and grass. He submits his resume, which includes positions which were not listed on his application. Additionally, the appellant indicates that he functions as the "Acting" General Supervisor, Parks, when the supervisor is off and he has the highest seniority among seven supervisors. Moreover, he asserts that he was previously deemed eligible for a prior promotional examination for General Supervisor, Parks (PM0890G).

In support of the appellant's appeal, the appointing authority submits a letter stating that the appellant performs all the relevant duties of the subject title and should be found eligible for the examination. Moreover, the appointing authority presents a letter from Charles Thomas, a Superintendent of Public Property, who clarifies that in addition to the appellant's responsibility of overseeing three greenhouses, he also has supervised staff in the planting of trees, shrubs, grass, and flowers. Further, the appellant has assisted with the creation of rain gardens in the park system and properties. Moreover, Thomas verifies that the appellant has supervised the maintenance of over 755 acres of park properties, including work

involving weeding flowerbeds, grass cutting, sports field maintenance, tree pruning, pond maintenance, pesticide spraying, *etc.* He notes that the supervisors are encouraged to work together to establish a united team, and the appellant has been part of that team in his supervisory capacity since 2002.

The job specification for Supervisor, Greenhouse, states that an incumbent, under direction, supervises and works with a group of employees engaged in tasks involved in growing varied types of plants in and about a greenhouse, and does other related duties.

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 addition, *N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open-competitive requirements may not use experience gained as a result of out-of-title work to satisfy eligibility requirements or for credit in the examination process. Furthermore, *N.J.A.C.* 4A:4-6.3(b) provides that the appellant has the burden of proof in examination and selection disqualification appeals.

Initially, it is noted that, on appeal, the appellant provides positions not included in his application. *N.J.A.C.* 4A:4-2.1(f) provides that an application may only be amended prior to the announced closing date. That is, any documentation indicating work in any setting that was not previously listed on an application or resume cannot be considered after the closing date. *See In the Matter of Joann Burch, et al.* (MSB, decided August 21, 2003) and *In the Matter of Rolanda Alphonso, et al.* (MSB, decided January 26, 2005). Thus, the experience that the appellant did not list on his application will not be considered. Moreover, with regard to the appellant's argument that he was found eligible for a previous examination for the same title, the Commission notes that eligibility is determined on the basis of each discrete announcement. If the appellant does not meet the requirements for the current announcement, the fact that he was admitted in error to a prior examination for the same title does not provide him with an entitlement to eligibility in the instant matter. No vested or other rights are accorded by an administrative error. *See Cipriano v. Department of Civil Service*, 151 *N.J. Super.* 86 (App. Div. 1977); *O'Malley v. Department of Energy*, 109 *N.J.* 309 (1987); *HIP of New Jersey v. New Jersey Department of Banking and Insurance*, 309 *N.J. Super.* 538 (App. Div. 1998).

Nonetheless, although the Division of Selection Services determined that the appellant did not list any applicable experience, the Commission finds that his experience is relevant but was gained as a result of out-of-title work. Ordinarily, the Commission looks to whether or not "good cause" has been established in

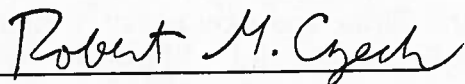
determining whether to grant or deny appeals involving out-of-title work. Generally, the Commission finds good cause where the record evidences that the examination situation is not competitive, no third parties are adversely impacted, and the appointing authority wishes to effect permanent appointments 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). In the present case, the appellant provides a detailed description of his duties. The appointing authority also verifies the performance of these applicable duties since 2002. As such, the appellant has more than the required three years of general and one year of supervisory experience. Moreover, the subject eligible list is now incomplete with two eligibles, and the list does not expire until July 2, 2017. Accordingly, under these circumstances, good cause exists to accept the appellant's out-of-title work experience, for eligibility purposes only, and to admit him to the examination.

ORDER

Therefore, it is ordered that this appeal be granted and the application of Edward Oravsky, Jr., 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 3RD DAY OF DECEMBER, 2014



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