

B-34



STATE OF NEW JERSEY

**In the Matter of David Bowman and
Henry Mackney, Administrative
Analyst 2, Data Processing
(PS6822G), Department of
Environmental Protection**

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

Examination Appeal

**CSC Docket Nos. 2015-115 and
2015-131**

SEP 22 2014

ISSUED: (WR)

David Bowman and Henry Mackney appeal the determination of the Division of Selection Services (Selection Services) which found that they were below the minimum requirements in experience for the promotional examination for Administrative Analyst 2, Data Processing (PS6822G), Department of Environmental Protection (DEP). Since these appeals address similar issues, they have been consolidated herein.

The subject examination was announced with a closing date of January 21, 2014 and was open to employees in the competitive division who possessed a Bachelor's degree and three years of experience in work involving the review, analysis and evaluation of organization and administrative practices to determine the need for revision or implementation of data processing systems in a large business or government agency. An eligible list containing the names of two individuals promulgated on July 3, 2014 and expires on July 2, 2017. No certifications have been issued.

On his application, Mr. Bowman indicated that he possesses a Bachelor's degree and has worked, in relevant part, in the subject title provisionally, pending promotional examination procedures, from July 2011 through the closing date; and as a Principal Environmental Engineer from April 2006 to July 2011. Selection Services credited him with two years and seven months of experience for his provisional experience in the subject title. However, it determined that the duties he performed as a Principal Environmental Engineer while relevant, were out-of-title. Therefore, Selection Services determined that Mr. Bowman lacked five

months of the required experience and found him ineligible for the subject examination.

Mr. Mackney indicated on his application that he possesses a Bachelor's degree and has worked in the subject title from September 1991 through the closing date. Agency records reveal, in relevant part, that Mr. Mackney has served in the subject title provisionally pending promotional examination procedures from August 13, 2011 through the closing date; as an Environmental Specialist 2 from January 29, 2011 to August 13, 2011; and as a Senior Environmental Specialist from September 26, 1998 to January 29, 2011. Selection Services credited Mr. Mackney with two years and six months of experience for his experience in the subject title. It did not credit any of his other experience, determining that any experience he would have gained in his other titles would constitute out-of-title work. Therefore, it found Mr. Mackney ineligible for the subject examination.

On appeal, both appellants provide a detailed description of their duties since 2006. They note that in 2011 they were placed in the subject title after a classification review determined that they were performing the duties of the subject title. They also submit a letter of support from Bill O'Sullivan, Director, Division of Air Quality, DEP. Mr. O'Sullivan confirms that Mr. Bowman and Mr. Mackney have been performing duties relevant to the requirements for the subject examination since 2006.

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:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process.

Initially, it is noted that Selection Services correctly determined that Mr. Bowman and Mr. Mackney were not eligible for the subject examination. Applicants were required to possess three years of the indicated experience. However, a review of the appellants' applications reveal that Mr. Bowman and Mr. Mackney only possessed two years and seven months and two years and six months, respectively, of the required experience based on their provisional service in the subject title.

In the instant matter, the appellants, supported by Mr. O'Sullivan, maintain that they have been performing the required duties since 2006. Accepting their supervisor's verification that the appellants performed relevant out-of-title duties, as of the closing date of the examination they both possessed more than the

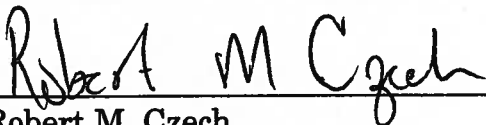
required three years of applicable experience. However, all but two years and seven months of Mr. Bowman's experience and two years and six months of Mr. Mackney's experience was accrued via out-of-title work. *N.J.A.C. 4A:4-2.6(c)* generally provides that applicants for promotional examinations may not use experience gained as a result of out-of-title work to satisfy eligibility requirements unless good cause exists. In this case, the appellants provide a detailed description of the applicable out-of-title experience gained while employed as a Principal Environmental Engineer, Environmental Specialist 2, and Environmental Specialist 3. Additionally, the subject eligible list is currently incomplete, as only two eligibles were admitted to the subject examination. Moreover, the appellants continue to serve provisionally in the subject title. Accordingly, good cause exists to accept the appellants' out-of-title work experience and admit them to the examination.

ORDER

Therefore, it is ordered that these appeals be granted, and David Bowman and Henry Mackney's applications be processed for prospective appointment only.

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 SEPTEMBER, 2014



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