

CSC  
B-80



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Felipe Garcia,  
Sanitation Driver (PC0804S), Morris  
County

CSC Docket No. 2015-1631

Examination Appeal

ISSUED: APR 02 2015 (BS)

Felipe Garcia appeals the determination of the Division of Agency Services which found that he did not meet the requirements for the examination for Sanitation Driver (PC0804S), Morris County.

The examination at issue was announced with experience requirements which had to be met as of the announced closing date of July 21, 2014. Specifically, all applicants had to possess one year of experience in driving a truck with tandem/dual rear axles and a gross vehicle weight of at least 26,000 pounds and with auxiliary equipment such as a snow plow, salt spreader, power take-off, winch, lift body, or hydraulic lifting device. Records indicated that the subject promotional examination was cancelled on December 8, 2014 due to a lack of qualified applicants.

The appellant filed an application on which he indicated that he only possessed experience as a provisional Sanitation Driver (10/00 to the closing date). However, Civil Service Commission records indicate that the appellant possessed experience as a provisional Sanitation Driver (3/14 to the closing date) and Sanitation Worker (10/00 to 2/14). The Division of Agency Services concluded that the appellant only possessed five months of applicable experience as a provisional Sanitation Driver as of the closing date. Any responsibilities in the required areas the appellant may have assumed while serving as a Sanitation Worker would constitute out-of-title work which generally cannot be used to establish eligibility for promotional examinations announced with open competitive requirements. As a

result, the Division of Agency Services found the appellant ineligible for the subject promotional examination.

On appeal, the appellant asserts that he satisfies the subject requirements. Specifically, the appellant asserts that he has possessed a CDL license for the past seven years and he requests that his application be reconsidered.

### CONCLUSION

*N.J.A.C.* 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the examination 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 eligibility requirements. *N.J.A.C.* 4A:1-1.2(c) provides that the Civil Service Commission may relax a rule for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated. *N.J.A.C.* 4A:4-6.3(b) provides that, except for medical or psychological disqualification appeals, the appellant shall have the burden of proof.

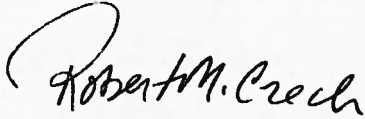
As of the July 21, 2014 closing date, the appellant only possessed five months of applicable experience as a provisional Sanitation Driver. On appeal, the appellant indicated that he possessed his CDL license for the past seven years. In the instant matter, the Commission notes that the appellant continues to successfully serve as a provisional in the subject position, which gives him an additional nine months of the required experience. Additionally, the subject promotional examination has been cancelled due to a lack of qualified applicants and, therefore, this is not a competitive situation. If the appellant's experience gained after the closing date as a provisional Sanitation Driver were accepted, it would provide the appellant with sufficient experience to be admitted to the subject promotional examination. Under these circumstances, the Civil Service Commission accepts the appellant's experience gained after the closing date as a provisional Sanitation Driver, for eligibility purposes only, which will allow him the opportunity to be tested and be considered for a permanent appointment to the subject title.

### ORDER

Therefore, it is ordered that this appeal be granted, the examination cancellation be rescinded, and the appellant's application be processed as soon as possible.

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 1ST DAY OF APRIL, 2015



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- c. **Felipe Garcia**  
**Frank Corrente**  
**Kelly Glenn**  
**Joseph Gambino**

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