



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE  
ACTION OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Gerald D'Amato,  
Purchasing Assistant (PS9133G),  
Department of Environmental  
Protection

Examination Appeal

CSC Docket No. 2015-1888

ISSUED: **MAY 08 2015**

(RE)

Gerald D'Amato appeals the determination of the Division of Agency Services (DAS) which found that, per the substitution clause for education, he did not meet the experience requirements for the promotional examination for Purchasing Assistant (PS9133G), Department of Environmental Protection.

The subject examination announcement was issued with a closing date of September 22, 2014. The examination was open to employees in the competitive division who had an aggregate of one year of continuous permanent service as of the closing date in any competitive title and who met the open competitive requirements. These requirements included possession of 60 semester or credits from an accredited college or university, and two years of responsible technical, clerical experience in assisting professional staff in the purchase of equipment and supplies, or in maintaining purchasing records. Applicants who did not possess the required education could substitute additional experience on a year for year basis. The appellant was found to be below the minimum experience requirements per the substitution clause for education. One candidate appeared on the eligible list and was appointed.

Mr. D'Amato indicated on his application that he possesses 36 college credits, which prorates to one year, two months of experience. As such, he was required to possess two years, ten months of applicable experience per the substitution clause for education. On his application, he listed experience in the following four positions: provisional Purchasing Assistant; Audit Account Clerk and Clerk with the Juvenile Justice Commission; and Assistant Manager with Pier One Imports.

He was credited with 10 months of experience in his provisional position. Thus, he was found to be lacking two years of experience as of the September 2014 closing date.

On appeal, Mr. D'Amato states that he performed duties matching the announced requirement while in his Audit Account Clerk position, and he provides a list of duties. He also provides some duties performed in his current provisional position. Finally, he encloses a letter from Daniel Petrino, Manager 1, Fiscal Resources with the Juvenile Justice Commission. Petrino states he was the appellant's former supervisor and verifies that he performed relevant out-of-title duties while serving as an Audit Account Clerk with the Juvenile Justice Commission.

*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. *N.J.A.C.* 4A:4-2.6(c) provides in pertinent part that applicants for promotional examinations with open competitive requirements 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, unless good cause is shown for an exception.

## CONCLUSION

As to experience, the appellant received credit for the time spent in his provisional position. Nonetheless, the job specification for Audit Account Clerk indicates that the primary focus of this title is to perform routine clerical work relating the review, verification and preparation of financial records. This is not the same as responsible technical, clerical experience in assisting professional staff in the purchase of equipment and supplies, or in maintaining purchasing records. As such, if the appellant was involved in clerical work assisting in the purchase of equipment and supplies, or in maintaining purchasing records, it is out-of-title work. Ordinarily, the Civil Service 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, there is 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 this case, the appellant claims out-of-title work while working for another agency. That is, his current position is with the Department of Environmental Protection, and the out-of-title work was performed in the Juvenile Justice Commission. Thus, the appellant's current employer is unable to verify that the appellant has performed the relevant duties which otherwise satisfy the eligibility requirements. However, the appellant has

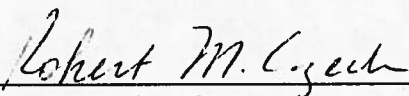
provided verification from his former supervisor indicating his performance of out-of-title duties while an Audit Account Clerk. Given that the situation is non-competitive, the presented verification, and the fact the appellant continues to serve provisionally, the Commission will accept Mr. D'Amato's out-of-title work, for eligibility purposes and admit him to the examination.

ORDER

Therefore, it is ordered that this appeal be granted and Mr. D'Amato's name be added to the subject eligible list, for prospective employment opportunities 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 6<sup>th</sup> DAY OF MAY, 2015



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