

B-19



STATE OF NEW JERSEY

In the Matter of Piyush Tivawala,
Contract Administrator 2 (PS8544G),
Department of Environmental
Protection

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Examination Appeal

CSC Docket No. 2015-1060

ISSUED: JUN - 4 2015 (WR)

Piyush Tivawala appeals the determination of the Division of Agency Services (Agency Services) which found that he was below the minimum requirements in experience for the promotional examination for Contract Administrator 2 (PS8544G), Department of Environmental Protection.

The examination at issue was announced, in part, with the following experience requirements, which had to be met as of the announced closing date of April 21, 2014. Specifically, applicants were required to possess a Bachelor's degree and three years of experience in work involving contract/grant work, project financing, construction management, fiscal administration, social services administration, and/or budget and management operations of a government or business entity, at least one year of which shall have involved responsibility for some aspect of contract/grant work. A Master's degree in Accounting, Finance, Business Administration, Public Health, Public Administration, Hospital Administration, or Social Work could be substituted for one year of the general experience requirement. An eligible list promulgated on October 2, 2014 with the names of three eligibles. One certification was issued on October 6, 2014, from which all three eligibles were appointed, effective October 6, 2014.

On his application, the appellant indicated that he possessed a Bachelor's degree, a Master's degree in Computer Science and that he served as an Environmental Engineer 3 from July 2007 to April 2014, an Environmental Engineer 2 from November 2003 to July 2007, an Environmental Engineer 1 from July 2002 to November 2003, an Environmental Engineer Trainee from July 2001 to July 2002 and a Technical Assistant from June 1995 to June 2001. As an Environmental Engineer 3, the appellant indicated that he reviewed loan

applications and designed documents for compliance with funding program requirements, recommended guidance to loan applicants and other parties and certified projects when appropriate. As an Environmental Engineer 2 and Environmental Engineer 1 and Environmental Engineer Trainee, the appellant indicated that he managed construction projects, monitored bidding procedures, reviewed all post-bid award packages and made recommendations and reviewed and approved partial and final payment requests. The appellant indicated that as a Technical Assistant he processed tax-related checks, searched for and processed delinquent tax returns, prepared tax returns, and kept records. While Agency Services found that the appellant may have performed some aspects of contract work, it determined that such work would be considered out-of-title work for his listed titles. It also determined that his Master's degree in Computer Science did not satisfy the substitution clause for education because it was not in one of the enumerated fields. Thus, Agency Services determined that the appellant lacked the required experience as of the closing date and was, therefore, ineligible.

On appeal, the appellant claims that he performed the required contract work in the aforementioned Environmental Engineer and Technical Assistant titles. He also argues that he possesses an aggregate one year of continuous permanent service. Finally, the appellant questions how employees were selected for the subject examination and requests that his resume be compared to those who were appointed to the subject position.

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.

A review of the job specifications for the aforementioned Environmental Engineer and Technical Assistant titles reveals that contract/grant work, project financing, construction management, fiscal administration, social services administration, and/or budget and management operations of a government or business entity are not duties of either of these positions. Thus, the appellant's performance of such duties constitutes 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 appellants have performed the relevant duties which otherwise satisfy the eligibility requirements. *See In the Matter of John Cipriano, et al.* (MSB, decided April 21, 2004). Upon a review of the record, good cause does not exist to accept the appellant's out-of-title work. Although the subject eligible list has been exhausted, the appellant has not provided any documentation or a letter of support from the appointing authority that describes and verifies his out-of-title duties. Finally, as

eligibility is determined by a review of the appellant's education and experience as listed on his application, it is not necessary to compare the appellant's application to those who were appointed.

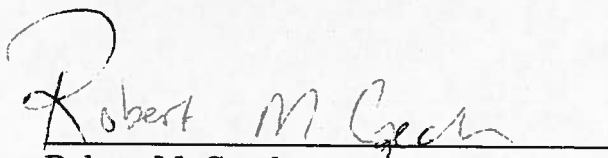
A thorough review of all material presented indicates that the determination of Agency Services, that the appellant did not meet the announced requirements for eligibility by the examination closing date, is supported by the record. Therefore, the appellant has failed to support his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

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 JUNE, 2015



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