



STATE OF NEW JERSEY

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

In the Matter of J.B.

CSC Docket No. 2022-455

Discrimination Appeal

ISSUED: May 2, 2022

J.B., an applicant for the open competitive examination for Automotive Mechanic (S0629A), Statewide, appeals the determination of the Director, Division of Equal Employment Opportunity/Affirmative Action, Civil Service Commission (Commission), which found which found that the appellant did not present sufficient evidence to support a finding that he had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy).

By way of background, the appellant filed a complaint with the EEO/AA alleging that the determination that he was ineligible for the open competitive examination for Automotive Mechanic (S0629A), Statewide was discriminatory based on his age. The EEO/AA investigated the complaint, including interviewing witnesses and reviewing pertinent documentation, and found that the application used to apply for the examination did not request any information regarding his age and that the appellant did not provide any information with his application indicating his age. Therefore, the investigation was unable to substantiate the appellant's allegations.

In his appeal to the Commission dated August 26, 2021 (date stamped received August 30, 2021 and postmarked August 27, 2021), the appellant states "the letter

received from October 20, 2020¹ gave me the belief that I was the victim of age discrimination because in it stated all the experience, training and education which I had when I applied for the exam.” The appellant states that it was a devastating experience for him and reiterates that it was “my belief from the letter dated October 20, 2020 “ that he “was the victim of age discrimination from this letter from the New Jersey Civil Service Commission.”

In response, the EEO/AA states that the investigation found that the online application for the Automotive Mechanic examination did not request any information regarding the appellant’s age nor did the appellant provide any information indicating his age at the time he submitted his application. Additionally, the investigation found that during the application process, no one asked for or was made aware of the appellant’s age. Moreover, the Commission granted the appellant’s appeal of his ineligibility based on the clarifying information he provided concerning his credentials during its investigation of the matter and admitted him to the examination.

CONCLUSION

N.J.A.C. 4A:7-3.1(a) provides that under the State Policy, discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.

N.J.A.C. 4A:7-3.1(b) states that it is a violation of the State Policy to use derogatory or demeaning references regarding a person’s race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set for in (a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another. Additionally, the appellant shall have the burden of proof in all discrimination appeals. *See N.J.A.C.* 4A:7-3.2(m)(3).

The Commission has conducted a review of the record and finds that the appellant has not met his burden of proof. The investigation interviewed witnesses and documentation and determined he was not discriminated against based on his age. In this regard, the investigation found that the online application for the

¹ There is no letter to the appellant dated October 20, 2020 in the record. However, the appellant included a letter dated February 10, 2020 from a staff member of the Division of Appeals and Regulatory Affairs (DARA) concerning his examination eligibility appeal. That letter recounts the dates of employment the appellant listed on his application for the examination. Specifically, it indicated that he listed one positions on his application, Automotive Mechanic, from August 1988 to May 2010.

Automotive Mechanic examination did not request any information regarding the appellant's age nor did the appellant provide any information indicating his age at the time he submitted his application. Additionally, the investigation found that during the application process, no one asked for or was made aware of the appellant's age. The February 10, 2020 correspondence from DARA that the appellant provided with the instant appeal is not evidence of age discrimination. In this regard, that letter simply states that the appellant indicated on his application that he was an Automotive Mechanic from 1988 to 2010 but official records indicated that he in fact held three different titles during that time frame. Moreover, in the appeal of his ineligibility for the Automotive Mechanic examination, the Commission specifically found that initially, the Division of Agency Services correctly found him ineligible based on how he described his experience on his original application and that DARA's February 20, 2020 correctly found that he had not provided sufficient information in his appeal that evidenced possession of the specific requirements stated in the announcement. Nonetheless, the Commission was only able to accept the additional clarification of his experience he provided during the investigation of the instant matter and admit him to the test because the Automotive Mechanic eligible list was incomplete.

Accordingly, the appellant has not demonstrated that the investigation on this matter was not thorough and impartial or that there a violation of the State Policy.

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 27TH DAY OF APRIL 2022

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