



STATE OF NEW JERSEY

In the Matter of Thomas Romaine,
Jr., Mechanic (M1007D), Brick

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

CSC Docket No. 2023-1107

Examination Appeal

ISSUED: December 21, 2022 (SLK)

Thomas Romaine, Jr. appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the experience requirements for the open competitive examination for Mechanic (M1007D), Brick.

The subject examination’s closing date was August 22, 2022. The training requirement was successful completion of one year of training in automotive technology at a community college or vocational school. The experience requirements were two years of experience in the maintenance and repair of various types of motor vehicles and/or construction equipment such as bulldozers, tractors, cranes, road graders, power shovels, or similar equipment. Applicants who did not possess the required year of formal training could have substituted one additional year of experience. Further, an Automotive Service Excellence (ASE) Certification from the National Institute for Automotive Service Excellence in A-1 Engine Repair, A-6 Electrical/Electronic Systems, or A-8 Engine Performance could have substituted for the formal training. A total of five candidates applied and three were found eligible. Certification OL221380 was issued and its disposition is due on February 14, 2023. The subject eligible list expires on November 9, 2025.

On his application, the appellant indicated that he completed a program in Automotive Technology from a vocational school. He also indicated that he was a “Mechanic” from January 2022 to the closing date, a Maintenance Worker 1, Grounds from January 2019 to December 2021, and an Electrical Assistant from June 2018 to

December 2018. Personnel records indicate that he was a Maintenance Worker 1, Grounds from January 2019 to the closing date.¹ Agency Services credited him with having met the education requirement and having eight months of experience, but determined that he lacked one year and four months of experience.

On appeal, the appellant indicates that in addition to his experience with the appointing authority, he has been self-employed performing “side work” as a Mechanic for the past seven years. Additionally, he indicates that he worked in his grandfather’s shop for many years as a Mechanic. He describes how he performed the required duties in these positions. Further, the appointing authority confirms that even though the appellant is a Maintenance Worker 1, Grounds, he has been performing the required duties “out-of-title.” It also indicates that while it is currently only looking to fill one position, it supports the appellant’s appeal.

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:4-2.1(f) provides that an applicant may amend a previously submitted application only prior to the announced closing date. *N.J.A.C.* 4A:1-1.2(c) states that the Civil Service Commission (Commission) may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

N.J.A.C. 4A:4-4.2 provides, in pertinent part, that:

- (c) An appointing authority shall be entitled to a complete certification for consideration in making a permanent appointment, which means:

* * *

2. From promotional and open competitive lists, the names of three interested eligibles for the first permanent appointment, and the name of one additional interested eligible for each additional permanent appointment. Eligibles who receive the same score shall have the same rank. If three or more eligibles can be certified as a result of this ranking without resorting to all three highest scores on the list, then only those eligibles will be certified.

- i. When fewer than three interested eligibles are certified and no provisional currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; make a provisional appointment

¹ Personnel records do not verify the appellant’s employment as an Electrical Assistant with the appointing authority.

from the list; make a provisional appointment of another qualified person if no eligible on the list is interested; or vacate the position/title.

Initially, Agency Services correctly determined that the appellant was not eligible as, on his application, he only presented his “Mechanic” experience with the appointing authority from January 2022 to the closing date. However, on appeal, the appellant describes how he has been performing the required duties for many years outside his employment with the appointing authority. Although *N.J.A.C. 4A:4-2.1(f)* proscribes the amendment of an application after the closing date set in the announcement, the circumstances present in this matter provide good cause to permit the appellant to amend his application. Specifically, although the appointing authority indicates that it currently is only seeking to fill one position, it confirms that the appellant is also performing the required duties, which indicates that it actually currently has two positions performing the required duties. Additionally, once the appointing authority makes an appointment from certification OL221380, the list shall be incomplete with only two names remaining on the eligible list. Further, the Commission notes that the dual purpose of the Civil Service system is to ensure efficient public service for State and local governments and to provide appointment and advancement opportunities to Civil Service employees based on their merit and abilities. These interests are best served when more, rather than fewer, individuals are presented with employment opportunities. See *Communications Workers of America v. New Jersey Department of Personnel*, 154 N.J. 121 (1998). Therefore, the Commission finds good cause under *N.J.A.C. 4A:1-1.2(c)* to relax the provisions of *N.J.A.C. 4A:4-2.1(f)* to accept the appellant’s amended experience, for eligibility purposes only, and admit him to the subject examination.

One other issue needs to be addressed. It appears that the appointing authority has impermissibly had the appellant working “out-of-title. This violates Civil Service law and rules. See *N.J.A.C. 4A:3-3.4* and *In the Matter of Cassandra Lewis* (CSC, decided August 15, 2012). Therefore, the Commission orders that the appointing authority remove such out-of-title duties or permanently appoint him or another interested eligible from the subject list.

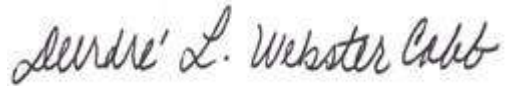
This determination is limited to the instant matter and does not provide precedent in any other matter.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant’s application be processed for prospective employment opportunities only. The appointing authority shall remove any out-of-title assigned Mechanic duties to the appellant or appoint him or another interested eligible from the subject list.

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 21st DAY OF DECEMBER, 2022



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