



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Allen Mullen,
Assistant Supervisor Recycling
Operations (PC4783C), Ocean County

CSC Docket No. 2022-2376

Examination Appeal

ISSUED: MAY 23, 2022 (RE)

Allen Mullen appeals his rank and score for the promotional examination for Assistant Supervisor Recycling Operations (PC4783C), Ocean County. The appellant received an unassembled examination score of 70.000, and a seniority score of 75.879, for a final average of 71.180, and ranked fifth on the resultant eligible list.

The subject examination had a closing date of November 22, 2021, and 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 the title Senior Recycling Operator. Five candidates appear on the eligible list, which has been certified once, but no appointments have yet been made.

This examination was processed as an unassembled examination (UE), *i.e.*, candidates were ranked on the eligible list based on an evaluation of their education and experience as listed on their applications. The unassembled examination standard conferred a base score of 70.000 for all eligible applicants. Full credit was awarded for up to ten years of experience in work involving operation and maintenance of gasoline or diesel-powered construction equipment to dig, excavate, grade, move, or transfer materials or, in the operation of industrial equipment or machinery. It is noted that no credit was given for experience gained more than ten years prior to the examination closing date, in this case, December 2011. The appellant indicated on his application that he was a Recycling Operator from July 2012 to July 2012 and a Senior Recycling Operator from December 2014 to the November 2021 closing date. A review of agency records indicate that he was a

Recycling Operator from July 2012 to December 2014 and a Senior Recycling Operator from December 2014 to the closing date. The appellant described the duties of both positions as “maintain and operate heavy equipment.”

The Division of Agency Services found that the appellant’s description of his duties on his application did not satisfy the open-competitive requirements for the subject title. Therefore, none of his experience was credited for scoring purposes. However, since the appellant was permanent in the title to which the examination was open, Senior Recycling Operator, he received a flat passing score of 70 for the examination.

On appeal, the appellant states that there must have been a mistake as he has 35 years of experience as a Truck Driver and Heavy Equipment Operator, both with Ocean County and with a private employer.

CONCLUSION

Eligibility for all examinations is premised on the applicant satisfying the minimum open competitive requirements specified for a particular title. The “Flat 70” rule provides those applicants who do not satisfy the minimum requirements for the title, but who were admitted to the test because of their service in an in-series title or a title at a specified class code, an opportunity for a promotion. Accordingly, applicants who would otherwise not satisfy the open competitive requirements to establish eligibility for admission to the examination are only awarded the base passing score of 70.000. *See In the Matter of Carinne Rivers* (CSC, decided April 15, 2009).

In this case, the appellant listed two positions on his application, Senior Recycling Operator, and Recycling Operator. For both positions, he listed his duties as, “maintain an[d] operate heavy equipment.” Agency Services denied credit for those positions as these duties did not indicate experience in work involving operation and maintenance of gasoline or diesel-powered construction equipment to dig, excavate, grade, move, or transfer materials, and it noted that it needed clarification of the duties. It is noted that the appellant did not include experience with any other employer on his application.

A review of the experience requirement for the subject title indicates that the title under test has a bifurcated experience requirement. It requires experience in work involving operation and maintenance of gasoline or diesel-powered construction equipment to dig, excavate, grade, move, or transfer materials **OR** in the operation of industrial equipment or machinery. [Emphasis added] The appellant’s duties differed from the second portion of this requirement only in that he stated he was working with heavy equipment rather than industrial equipment or machinery. The first requirement pertains to operation of heavy equipment, and

the second pertains to the equipment or machinery related to the recycling plant, for example composting or recycling equipment. The operation of industrial equipment can be fairly characterized as “heavy equipment” and is clearly in-title work for incumbents in the Recycling Operator title series. Therefore, the Civil Service Commission is satisfied that the appellant’s description of his duties on his original application satisfied the open competitive requirements for Assistant Supervisor of Recycling Operations.

As such, the appellant should be credited for his experience as a Recycling Operator and Senior Recycling Operator from July 2012 to the November 2021 closing date, and his rank and score be corrected on the eligible list and the existing certification (PL220401). With the acceptance of eight years, five months of experience, the appellant’s UE score for the examination would be 86.840. The appellant’s final average should be calculated using this score.

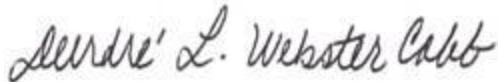
The appellant is cautioned to provide full and complete descriptions of duties on any future applications he may file.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant’s score be changed to include his experience as a Recycling Operator and Senior Recycling Operator, and that his rank and score be revised on the eligible list and certification (PL220401).

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 18TH DAY OF MAY, 2022



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