



**STATE OF NEW JERSEY**

In the Matter of Joseph DiMassi,  
Assistant Public Works  
Superintendent (PM2045F),  
Lopatcong

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

CSC Docket No. 2024-2497

Examination Appeal

**ISSUED: November 27, 2024 (HS)**

Joseph DiMassi appeals the determination of the Division of Agency Services (Agency Services), which found that he was not eligible for the promotional examination for Assistant Public Works Superintendent (PM2045F), Lopatcong because he was not employed in the announced department.

The subject examination was announced with a closing date of March 21, 2024 and was open, in pertinent part, to employees serving in the Buildings and Grounds Department. The appellant was deemed ineligible because he was serving in the Public Works Department. The resulting eligible list of one name promulgated on May 30, 2024 with an expiration date of May 29, 2026. A certification issued from the eligible list on June 3, 2024 (PL240908), and Brian Race received a permanent appointment, effective June 5, 2024.

On appeal to the Civil Service Commission (Commission), the appellant, a Senior Public Works Repairer, maintains that he should not have been excluded from the subject examination because the title at issue is a Public Works Department title. He states that the salary for Assistant Public Works Superintendent is higher than the amount appropriated for salaries and wages for the public building and grounds function and argues this proves that the salary must be paid out of the amounts appropriated for salaries and wages for the Public Works Department. The appellant notes that prior to his appointment to the subject title, Race had moved from the title of Building Maintenance Worker/Maintenance Worker 1 Grounds to the title of Public Works Repairer. Further, the appellant contends that Lopatcong created the position

of Assistant Public Works Superintendent in 2023 by Ordinance No. 23-15. The appellant maintains that the position is called “Deputy Supervisor of Department of Public Works” in that ordinance, and the duties of the position described therein is in fact Public Works Department work. Specifically, the ordinance, among other things, states:

The office of Deputy Supervisor of Public Works, which individual shall assist the Supervisor of Public Works in performing administrative and supervisory duties in planning and organizing the cleaning, maintaining, building and repairing of roads, bridges, culverts, drains and structures and such duties and responsibilities as created by this article or as assigned by the Supervisor or Township Council, is hereby established.<sup>1</sup>

The appellant insists that Buildings and Grounds has long been a core function of Public Works, and they are not separate entities. In support, the appellant submits excerpts from a 2014-2016 employment agreement; budget documentation; and ordinances.

In response, Lopatcong, represented by Wade T. Baldwin, Esq., states that Race was appointed in 2010 under the Buildings and Grounds Department, which has existed for many years extending back to 1981. Per Lopatcong, Race has been employed in the Buildings and Grounds Department for the entirety of his tenure with it. Lopatcong maintains that the instant appeal lacks merit and should be denied.

In reply, the appellant asserts that no Buildings and Grounds employees ever performed Public Works Department jobs in his tenure with the department. He argues that they may be separate departments on paper, but they function as one entity. He notes that the above-mentioned 2014-2016 employment agreement was between Lopatcong and “The Lopatcong Township [Department of Public Works],” which included the appellant and Race, among others. The appellant contends that if Race has been a Buildings and Grounds employee all along as Lopatcong maintains, it does not make sense that he is also the Assistant Public Works Superintendent. He maintains that his application should not have been rejected on the basis that he was not employed in the announced department, and other Public Works employees should have been allowed to apply as well. The appellant contends that it is unreasonable that he must accept that “it’s not my department,” but another department can perform his work in his department, and the appellant can perform work in Race’s department and Race can oversee the appellant and be his boss. In

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<sup>1</sup> Ordinance No. 23-15 was adopted July 5, 2023, the same date that, according to the County and Municipal Personnel System, Race was appointed provisionally to the title of Assistant Public Works Superintendent.

support, the appellant submits a complete copy of the 2014-2016 employment agreement.

Subsequently, Lopatcong provided an organizational chart. As pertinent to this matter, the chart shows the following:

<b>Public Works Dept.</b>	<b>Public Works Dept.</b>		
	<b>Buildings and Grounds Dept.</b>		
<b>Superintendent</b>	<b>Superintendent</b>		
Brian Weeks	Brian Weeks		
<b>Asst. Public Works Super.</b>	<b>Asst. Public Works Superintendent</b>		
Brian Race	Brian Race		
<b>Sr. Public Works Repairer</b>	<b>Building Maintenance Worker</b>		
Joseph DiMassi	Maureen Faust		
<b>Public Works Repairer</b>			
Scott Tettermer			
Christopher Gara			
<b>Labor I</b>			
Kyle Suruda			
Richard Kisselbach			

A review of official personnel records finds that Weeks is serving in the title of Public Works Superintendent and assigned to the Public Works Department.

## 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:4-2.6(a)2 provides that applicants for a promotional examination must be currently serving in the announced unit scope in a title to which the examination is open and meet all other requirements contained in the announcement. If an examination announcement is amended, all requirements must be met by the announced closing date whether or not the application filing date is changed.

*N.J.A.C.* 4A:1-1.3 provides that “[d]epartment” in local service, where not otherwise defined by statute, means the largest type of organizational unit established by ordinance or resolution, as appropriate, that is not a sub-unit of any other organizational unit for the purpose of administering the political subdivision.

In the instant matter, the appellant essentially argues that limiting the examination to eligible individuals in the Buildings and Grounds Department without also opening it to the Public Works Department unfairly restricted the competitive process. The Commission agrees. Initially, it is noted that the definition

section of the job specification for Assistant Public Works Superintendent, the title under test, provides:

Under direction assists the *Public Works Superintendent* or other supervisory official responsible for the oversight of a *public works department*, in performing administrative and supervisory duties in planning and organizing the installation, maintenance, and repair of various public works facilities; does related work as required (emphases added).

The record further reflects that Lopatcong established the position of “Deputy Supervisor of Department of Public Works” by Ordinance No. 23-15, which states:

The office of Deputy Supervisor of Public Works, which individual shall assist the Supervisor of Public Works in performing administrative and supervisory duties in planning and organizing the cleaning, maintaining, building and repairing of roads, bridges, culverts, drains and structures and such duties and responsibilities as created by this article or as assigned by the Supervisor or Township Council, is hereby established.

Given the similarity between the duties noted in Ordinance No. 23-15 and the job specification for Assistant Public Works Superintendent and the fact that the ordinance was adopted July 5, 2023, the very date that Race was appointed provisionally to the title of Assistant Public Works Superintendent, it is more likely than not that “Deputy Supervisor of Department of Public Works” is the functional title for the Civil Service title Assistant Public Works Superintendent. Further, the 2014-2016 employment agreement was between Lopatcong and “The Lopatcong Township [Department of Public Works],” which included the appellant, Race, and others. This suggests that Lopatcong has treated Race as a Public Works Department employee. In addition, Lopatcong’s organizational chart places the Buildings and Grounds Department under the Public Works Department, lending credibility to the appellant’s claim that Buildings and Grounds is a function of the Public Works Department. The chart also places the position of the Assistant Public Works Superintendent in both the Buildings and Grounds Department and the Public Works Department. Finally, Weeks, the Public Works Superintendent, is assigned to the Public Works Department. Based on the foregoing, the examination should have been open to the Public Works Department as well.

Consequently, the appellant has established a sufficient basis to widen the announced unit scope. Therefore, the Commission orders that the examination be re-announced for the limited purpose of opening it to the Public Works Department. As the appellant was assigned to that department and has already submitted an application, his application shall continue to be processed without regard to any issue

of unit scope. Moreover, the examination shall be processed as a written examination. Should any additional names be added to the eligible list, those names shall in turn be added to certification PL240908, which shall then be returned to Lopatcong for proper disposition. Any appointments made, upon the successful completion of a working test period, will reflect a retroactive permanent appointment date of June 5, 2024 for salary step placement and seniority-based purposes only. Finally, Race's appointment to the subject title shall be conditional, pending the completion of the re-announced examination and certification process. *See N.J.A.C. 4A:4-1.4.*

### ORDER

Therefore, it is ordered that this appeal be granted as set forth above.

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 27<sup>TH</sup> DAY OF NOVEMBER, 2024




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