



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Rahul Patel,
Human Services Specialist 4
(PC0366S), Passaic County

Examination Appeal

CSC Docket No. 2015-291

ISSUED: SEP 18 2014

(RE)

Rahul Patel appeals the decision of the Division of Selection Services which found that he lacked the required amount of permanent status for the examination for Human Services Specialist 4 (PC0366S), Passaic County.

The subject examination was announced with a closing date of March 21, 2014, and was open to employees in the competitive division who had an aggregate of one year of continuous permanent service in the titles Human Services Specialist 2 and Human Services Specialist 3, OR to employees in the competitive division who had an aggregate of one year of continuous permanent service and who met the open competitive requirements. These requirements included possession of 60 semester hour credits from an accredited college or university, and three years of experience involving any combination of the following: securing/verifying information and making determinations or recommendations relating to eligibility or qualifications of applicants for loans, insurance, credit, or entitlement to cash awards, financial benefits, or adjustment and settlement of insurance claims; investigations involving the collection of facts and information by observing conditions, examining records, interviewing individuals, and preparing investigative reports of findings; or investigating, establishing, and/or enforcing support obligations in a welfare board or agency, court system, or related agency. A Bachelor's degree could be substituted for the educational requirement and two years of experience. Applicants who did not possess the required education could substitute experience on a year-for-year basis. Eighty-eight candidates were admitted and the examination has not yet been held.

By way of background, the appellant filed an application for the examination for Human Services Specialist 1 (C2150N) in August 2011, and was found eligible. He then was appointed to this title on April 23, 2012 from the certification OL120142. Subsequently, the Division of Selection Services found him ineligible based on residency requirements, and he was removed from the certification. Passaic County was told in September 2012 that the appellant could not be appointed from the certification OL120142. The appellant was terminated from employment on October 26, 2012, and his employment record was deleted. After the appellant appealed this decision, the Commission granted the appeal and ordered that his application be amended to indicate a Clifton residency code. A copy of that decision, entitled *In the Matter of Rahul Patel, Human Services Specialist 1 (C2150N), Passaic County* (CSC, decided February 6, 2014), is attached hereto and incorporated herein. The Division of Selection Services determined that this would be for prospective appointment only. Passaic County brought the appellant back to work on February 25, 2013. They manually recorded this as a provisional position, but no employment record exists with his provisional appointment. He was then rehired on September 23, 2013 from the certification OL131138. Thus, when the appellant filed an application for the subject examination in March 2014, he was found to not have met the requirements of one year of continuous permanent service.

On appeal of this issue, the appellant explained the situation and indicates that he submitted correspondence on February 25 and September 27, 2013 asking to have his reinstatement retroactive to October 26, 2012 and to continue his permanent service uninterrupted. He states that he did not receive a response to these communications, and he requests a retroactive permanent appointment. It is noted for the record that the February 25, 2013 letter was faxed to the Department of Labor and Workforce Development, Division of Unemployment Insurance.

N.J.A.C. 4A:4-2.6(a) (Eligibility for promotional examination) states in pertinent part that applicants for promotional examinations shall, by the application filing date, meet the criteria of having one year of continuous permanent service for an aggregate of one year immediately preceding the closing date in a title or titles to which the examination is open. Aggregate service shall be calculated in the same manner as seniority as set forth in *N.J.A.C. 4A:4-2.15*. *N.J.A.C. 4A:4-6.1(c)* states that any action taken shall be effective (i.e., ineligibility) upon receipt of written notice of disqualification. *N.J.A.C. 4A:4-6.6(a)1* states that an appeal shall be filed within 20 days of notice of the action, decision or situation being appealed.

CONCLUSION

The appellant has clearly attempted to request a retroactive appointment since the Commission's determination in February 2013. The Division of Selection

Services removed the appellant from the eligible list and provided notification to the appointing authority that he could not be appointed, after he already had been appointed and had completed his working test period. In February 2013, the Commission accepted the appellant's explanation and affidavit regarding his residency and updated his application, and Passaic County brought the appellant back to work. In August 2013, The Division of Selection Services determined that this would be for future certifications only, and Passaic County permanently appointed the appellant with another certification in September 2013.

The appellant met his burden of proof regarding his residency and his application was amended. The application was filed in August 2011, and the Commission indicated that the appellant lived in Clifton since March 2011. Thus, the change on the application should have been retroactively applied rather than considered for prospective appointment only. Given these unique circumstances, the appellant's employment record should be amended to reflect his original appointment date of April 23, 2012. The period of his unemployment, from October 26, 2012 through February 25, 2013 should be considered to be a leave of absence without pay.

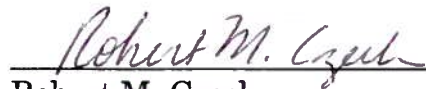
With this amendment to the record, the appellant has one year of continuous permanent service as of the closing date. Although the appellant is not permanent as a Human Services Specialist 2 or 3, his experience as listed on his application was reviewed and found to meet the open competitive requirements. The appellant's foreign transcript evaluation indicated that he accrued 94.5 college credits, and the appellant indicated that he earned 30 college credits at Monclair State University. The appellant also possesses 1 year, 7 months of applicable experience as a Human Services Specialist 1, and 3 years, 9 months of applicable experience as an Insurance Agent. As such, the appellant should be admitted to the subject examination.

ORDER

Therefore, it is ordered that this appeal be granted, that the appellant's employment record be adjusted, and he be admitted to the examination for Human Services Specialist 4 (PC0366S), Passaic County.

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 17th DAY OF SEPTEMBER, 2014


Robert M. Czech
Chairperson
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and
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Enclosure

c: Rahul Patel
 Mark Schiffer
 Dan Hill
 Kenneth Connolly
 Joseph Gambino



STATE OF NEW JERSEY

In the Matter of Rahul Patel,
Human Services Specialist 1
(C2150N), Passaic County

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2013-993

Examination Appeal

ISSUED: FEB 06 2013 (JH)

Rahul Patel appeals the determinations of the Division of Selection Services which found that he failed to meet the announced residency requirement for the Human Services Specialist 1 (C2150N), Passaic County, open competitive examination.

By way of background, the subject examination announcement was issued on August 5, 2011 with a closing date of August 26, 2011 and was open only to the residents of Passaic County. It is noted that 201 applicants, including the appellant, were admitted to the subject examination. The resultant eligible list was promulgated on January 19, 2012. Mr. Patel's name appeared at rank 14. Mr. Patel received a regular appointment to the Human Services Specialist 1 title from the certification issued from the C2150N list on January 23, 2012 (Certification No. OL120142) effective April 23, 2012.

In a letter dated August 23, 2012, the Assistant Director, Division of Selection Services, indicated to Mr. Patel that while he had used the same mailing address in Colonia (Woodbridge Township, Middlesex County), he had "filed multiple applications which include different residency codes" in that "the residency code you enter appears to be dependent on the residency requirement for the particular symbol." In response, by letter dated August 28, 2012, Mr. Patel indicated, in part, that he was "seeking admission for higher education at any of the NJ State's University; was trying to settle where I am admitted for a Bachelor's degree . . . But from March 2012 onwards, I was given hope by Montclair State University and settled at . . . Clifton . . . I, therefore, would like to notify my legal

residence of Passaic County with Residency Code of 1602. However, address on the top may continue to be used as my mailing address." It is noted that his letter indicated a Colonia address. By letter dated September 11, 2012, the Assistant Director, Division of Selection Services, indicated that although Mr. Patel did not "specifically state that your legal residence from October 21, 2010 up to March, 2012 was the [Colonia address], you can only have one legal residence; therefore the Colonia, New Jersey address is considered to be your legal residence for that period of time." The letter also indicated that as a result, his name was being removed from six open competitive lists, including the subject list, due to his failure to meet the residency requirement.

On appeal, Mr. Patel presents that although he stated in his letter dated August 28, 2012 to Selection Services that "from March 2012 onwards, I was given hope by Montclair State University and I settled at . . . Clifton . . .," what he "really meant to say [was] that from March 2012, I need not have to roam here and there to look for a job and/or university admission." He asserts that he "moved to Passaic in March 2011 to continue my job hunting and exploring admission possibilities at various universities." In support of his appeal, he provides additional documentation including a sworn affidavit dated November 17, 2012 in which he indicates that he has lived at a Clifton address with Dilip Chokshi since March 2011. He also submits a statement dated November 17, 2012 from Mr. Chokshi in which he indicates that Mr. Patel has been living with him since March 2011 at his Clifton address and is "providing shelter to Rahul free of charge till he finishes his Bachelor[s] degree education at Montclair State University and becomes self-sufficient." He provides a copy of a Lease Agreement dated March 7, 2011 with Mr. Chokshi which indicates that the lease term will begin March 7, 2011.

CONCLUSION

N.J.A.C. 4A:4-2.3(b) provides that applicants shall meet all requirements specified in the examination announcement by the closing date.

In the present matter, Mr. Patel has submitted a signed sworn statement that he has lived at a Clifton address since March 2011. The Commission is willing to accept that if Mr. Patel is prepared to make a statement under oath, understanding all its implications and consequences, then it is proper to permit his application for C2150N to be amended to indicate a Clifton residency code.

The Commission emphasizes that it is not making a determination of the appellant's residency. In this regard, it is noted that each jurisdiction has its own residency requirement, which must be met by the closing date. The Civil Service Commission does not have authority over the establishment of this requirement. Some jurisdictions only require candidates to be residents as of the closing date,

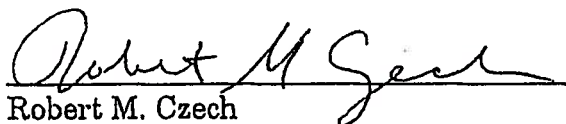
while others also require that residency be maintained up to the date of appointment. See *N.J.A.C. 4A:4-2.11(c)*.

ORDER

Therefore, it is ordered that this appeal be granted and his application for C2150N be amended to indicate a Clifton residency code. In so doing, the remedy provided herein is limited to the facts of this case and may not be used as precedent in any other proceeding.

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
THE 6TH DAY OF FEBRUARY, 2013



Robert M. Czech

Chairperson

Civil Service Commission

Inquiries
and
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c: Rahul Patel
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