



STATE OF NEW JERSEY

In the Matter of Omar Howard,
Deputy Chief Investigator (PS6624I),
Department of Corrections

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

CSC Docket No. 2022-1534

Examination Appeal

ISSUED: MAY 23, 2022 (ABR)

Omar Howard appeals the determination of the Division of Agency Services (Agency Services), which found that he was ineligible for the promotional examination for Deputy Chief Investigator (PS6624I), Department of Corrections (DOC) on the basis that he was not permanent in a title to which the examination was open as of the closing date.

By way of background, the subject examination was announced on October 1, 2021, with a closing date of October 21, 2021. The subject examination was open to employees serving in the titles of Assistant Chief Investigator Parole and Secured Facilities, and Principal Investigator Parole and Secured Facilities, with an aggregate of one year of continuous permanent service as of the closing date. A total of five eligibles have been admitted to the subject examination, which has not yet been administered.

The Commission previously approved the appellant's retroactive permanent appointment date to the title of Principal Investigator Parole and Secured Facilities, effective January 4, 2020, upon the successful completion of a working test period, in order to effectuate a legal settlement between the appellant and the appointing authority. *See In the Matter of Omar Howard* (CSC, decided August 4, 2021). Thereafter, the appellant's permanent appointment to the title of Principal Investigator Parole and Secured Facilities, was recorded, effective September 25, 2021. Agency Services deemed the appellant ineligible for the subject examination,

as he had not completed his working test period and was not considered permanent in the title of Principal Investigator Parole and Secured Facilities as of the closing date.

On appeal to the Civil Service Commission (Commission), the appellant states that the DOC was preparing to permanently appoint him from the Principal Investigator Parole and Secured Facilities (PS2734I), DOC eligible list when an incident occurred that resulted in disciplinary charges which delayed and later stopped his promotional appointment.¹ Subsequently, the appointing authority withdrew the charges at issue, which led to his promotion from the revived PS2734I eligible list. He argues that the retroactive permanent appointment date of January 4, 2020, for his appointment to the title of Principal Investigator Parole and Secured Facilities put him well within the requirement of serving in that title and having one year of continuous permanent service in that title as of the closing date. He also asserts that despite the Commission's August 4, 2021, order, his appointment to the title of Principal Investigator Parole and Secured Facilities was not effectuated until September 25, 2021. He contends that if his appointment and working test period had not been delayed, he would not have been deemed ineligible for the PS6624I examination.

The appointing authority states that it supports the instant appeal, noting that the appellant now has a seniority date of January 4, 2020, in the title of Principal Investigator Secured Parole and Secured Facilities. It also asserts that the limited number of candidates eligible for the PS6624I examination and the two vacancies it will have in the subject title within the next six months also support the appellant's admission to the subject examination.

Agency records indicate that the appellant completed his working test period on January 25, 2022.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)1 provides that applicants shall have 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. *N.J.A.C.* 4A:1-1.2 provides that the Commission may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

In the instant matter, Agency Services properly deemed the appellant ineligible. In this regard, because his working test period was in progress as of the October 21, 2021, closing date, per the Commission's August 4, 2021, order, he had not yet fulfilled the necessary condition for his retroactive appointment to the title of

¹ It is noted that the appointing authority acknowledged this in *In the Matter of Omar Howard* (CSC, decided August 4, 2021).

Principal Investigator Parole and Secured Facilities to become permanent. Further, even if the appellant's working test period had commenced as of August 4, 2021, he still would have been serving in the working test period as of the October 29, 2021, closing date for the PS6624I examination. *See N.J.A.C. 4A:4-5.3(b)2* (noting that in State service, the length of the working test period is four months).

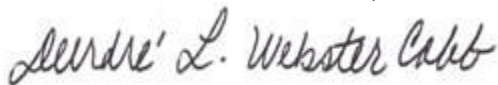
Nevertheless, the Commission observes that the appellant has successfully completed his working test period, meaning that his retroactive appointment, effective January 4, 2020, to the title of Principal Investigator Parole and Secured Facilities has become permanent. As a result, the appellant can now be said to have been permanent in the title of Principal Investigator Parole and Secured Facilities as of the closing date for the subject examination. Moreover, the Commission observes that the appointing authority supports the instant appeal. 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). Under these circumstances, good cause exists to relax *N.J.A.C. 4A:4-2.6(a)1* and admit the appellant to the subject examination.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant be admitted to the subject examination.

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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