



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Miguel A. Vargas,
Senior Motor Vehicle Operator,
Elderly and Handicapped Persons
(PC2280R), Morris County

Examination Appeal

CSC Docket No. 2014-2552

ISSUED: DEC 17 2014 (BS)

Miguel A. Vargas appeals the determination of the Division of Selection Services which found that he did not meet the requirements for the promotional examination for Senior Motor Vehicle Operator, Elderly and Handicapped Persons (PC2280R), Morris County.

The promotional examination at issue was announced with experience requirements which had to be met as of the announced closing date of December 21, 2013. Specifically, all applicants had to possess one year of experience in operating a motor vehicle used in the transportation of six or more persons. Records indicate that a promotional eligible list promulgated on April 10, 2014 containing the name of one qualified applicant.

The appellant filed an application on which he failed to list any experience. The Division of Selection Services attempted to contact the appellant via email and telephone but the appellant did not respond. Accordingly, the former Division of Selection Services found the appellant ineligible for the subject promotional examination.

On appeal, the appellant asserts that he satisfies the subject requirements. The appellant argued that he has held the title of Motor Vehicle Operator, Elderly and Handicapped Persons since 2007. Civil Service Commission records indicate that the appellant was appointed as a provisional Motor Vehicle Operator, Elderly and Handicapped Persons effective November 12, 2007 and received a regular appointment (RAN) effective October 20, 2012. On October 21, 2013, the appellant

was appointed provisional Senior Motor Vehicle Operator, Elderly and Handicapped Persons.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the examination announcement by the closing date. *N.J.A.C.* 4A:4-2.1 (g) provides that the Civil Service Commission may request clarifying information from an applicant. *N.J.A.C.* 4A:1-1.2(c) provides that the Civil Service Commission may relax a rule for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated. *N.J.A.C.* 4A:4-6.3(b) provides that, except for medical or psychological disqualification appeals, the appellant shall have the burden of proof.

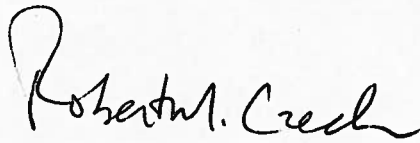
As of the closing date, the appellant submitted an application which did not list any positions or job responsibilities. However, Civil Service Commission records indicate that the appellant served as a Motor Vehicle Operator, Elderly and Handicapped Persons beginning in 2007 and was appointed provisional Senior Motor Vehicle Operator, Elderly and Handicapped Persons in October 2013. The Division of Selection Services attempted to contact the appellant to clarify his positions and duties but was unable to reach him. On appeal, the appellant listed his positions and job duties and does possess well in excess of the one year of experience necessary to qualify for the subject promotional examination as of the subject closing date. Additionally, the Commission notes that the appellant is the provisional appointee, he continues to serve provisionally in the subject title, and the only other applicant on the list was also serving as a provisional Senior Motor Vehicle Operator, Elderly and Handicapped Persons, and has subsequently been appointed, effective April 28, 2014. Accordingly, good cause exists for the Commission to accept the appellant's experience as a Motor Vehicle Operator, Elderly and Handicapped Persons and as a provisional Senior Motor Vehicle Operator, Elderly and Handicapped Persons as qualifying experience, even though it did not appear on his original application, which will allow him the opportunity to be tested and compete for a permanent appointment to the subject title.

ORDER

Therefore, it is ordered that this appeal be granted.

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 DECEMBER, 2014



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