

B-37



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Miryam Fonken,
et al., Human Services Specialist 4
(PC0366S), Passaic County

CSC Docket Nos. 2015-318
2015-365
2015-326
2015-367
2015-380

Examination Appeal

ISSUED: SEP 18 2014

(RE)

Miryam Fonken, Lawana King-Obi, Nixa Labruna, Lynda Wilson and Kim Yancey James appeal the decisions of the Division of Selection Services (DSS) which found that the examination for Human Services Specialist 4 (PC0366S), Passaic County does not represent a promotion.

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 as of the closing date in the titles Human Services Specialist 2 or Human Services Specialist 3 OR to employees in any competitive title who met the announced requirements. These requirements included completion 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 which involve 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 for two of the three years of required experience. Applicants who did not possess the required education could substitute experience as indicated on a year for year basis. The appellants were found ineligible as the

announced title did not represent a promotion. It is noted that 88 candidates have been admitted to the examination.

On appeal, Ms. Fonken argues that this is a promotion as the subject title has a higher salary and a higher salary range pursuant to a union contract negotiated between the Passaic County Board of Social Services and the Professional Workers Association. Additionally, the remaining appellants argue that they meet the announced requirements. All of the appellants are currently in the title Senior Training Technician or Senior Training Technician, Bilingual in Spanish and English.

CONCLUSION

In the instant matter, the appellants were found ineligible for the subject examination as moving from Senior Training Technician or Senior Training Technician, Bilingual in Spanish and English to Human Services Specialist 4 does not represent a promotion. In this respect, the requirements for the title Senior Training Technician, and its bilingual variant, are possession of a Bachelor's degree from an accredited college or university, and two years of experience in work involved in the planning and carrying out of training programs of varied types such as employee training, adult education, and/or group education or two years of teaching experience in elementary school through college which shall have included curriculum development and/or organization of learning programs.

A reasonable and generally accepted aspect of a promotion is that the employee receives greater compensation. Nonetheless, *N.J.A.C. 4A:3-4.1* states that, in local service, appointing authorities shall establish compensation plans which provide for paying employees in reasonable relationship to their job titles, and the Civil Service Commission (Commission) is generally not involved in the development of compensation plans, unless an appointing authority asks for assistance. As the Commission does not establish or administer local compensation schedules, defining a promotional opportunity by way of compensation cannot be accomplished. Moreover, the Commission is not empowered to correct inequities in a local government compensation plan.

That said, it is also noted that *N.J.A.C. 4A:4-2.5(a)1* states that professional titles require at least a Bachelor's or higher level degree, with or without a clause to substitute experience. *N.J.A.C. 4A:4-2.5(a)2* states that para-professional titles require at least 60 general college credits or 12 or more specific college credits (but less than a full degree). Thus, since the Senior Training Technician title requires completion of a Bachelor's degree with a substitution clause, which permits additional experience in lieu of the college credits, as well as relevant experience, it is considered a professional title. In contrast, the Human Services Specialist 4 title

requires completion of 60 general college credits, which indicates that this is a para-professional title.

As such, the subject title is para-professional and the appellants have professional titles. Professional work is predominantly intellectual and character, as opposed to routine mental, manual, mechanical or physical work, and it involves the consistent exercise of judgment. It is basically interpretive, evaluative, analytical and/or creative, requiring knowledge or expertise in a specialized field of knowledge. This is generally acquired by a course of intellectual or technical instruction, study and/or research at an institution of higher learning or acquired through an in-depth grasp of cumulative experience. However, there must be thorough familiarity with all the information, theories and assumptions implicit in the chosen field. Persons in professional work should be able to perceive, evaluate, analyze, formulate hypothesis, and think in the abstract. Positions are considered professional when the work requires *application* of professional knowledge and abilities, as distinguished from either the desirability of such application or the simple possession of professional knowledge and abilities.

Para-professionals may perform some of the duties of a professional or technician, but they do so as aides, in a supportive role. They need less formal training or experience than normally required for professional or technical title and span the gap between non-professionals and professionals. The duties of the two titles are not similar, and higher level functioning is expected from the Senior Training Technician. Moving from a professional title series to a para-professional title series, even into the supervisory para-professional title, is not a promotion, but would be a demotion. The appellants' education and experience have no bearing on this determination.

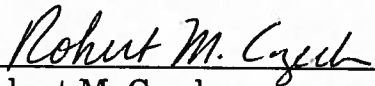
A thorough review of all material presented indicates that the decisions of DSS, that appellants are not eligible to apply for the examination as it does not represent a promotion, is amply supported by the record and the appellants provide no basis to disturb those decisions. Thus, appellants have failed to support their burden of proof in this matter.

ORDER

Therefore, it is ordered that these appeals be denied.

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


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