

B-26



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Jeffrey Meyer,  
Department of Environmental  
Protection

CSC Docket No. 2015-2393

Request for Reconsideration

ISSUED: MAY 11 2015 (WR)

Jeffrey Meyer petitions the Civil Service Commission (Commission) for reconsideration of its attached final decision, rendered on December 17, 2014,<sup>1</sup> which found him ineligible for the Manager 4 Environmental Protection, Technical, Scientific, Engineering (PS6834G),<sup>2</sup> Department of Environmental Protection examination.

By way of background, the subject examination required, in part, eligibles to possess a Bachelor's degree in Environmental, Chemical, Physical or Biological Science, or Engineering, and five years of fulltime experience in the scientific/technical aspects of environmentally related activities, three years of which shall have been in program management. The former Division of Selection Services<sup>3</sup> credited the petitioner with over 10 years of general experience, but found that he was performing out-of-title work. On appeal to the Commission, the petitioner asserted that his out-of-title experience as an "Acting Environmental Specialist 4" and as an "Acting Supervising Environmental Specialist" should have been accepted. Nevertheless, the Commission found that he had failed to demonstrate good cause to accept his out-of-title work and that, even if it was accepted, he would still lack one month of relevant experience. Additionally, the Commission determined that the petitioner lacked the required program management experience.

<sup>1</sup> It is noted that the decision incorrectly listed December 7, 2015 instead of December 7, 2014.

<sup>2</sup> The eligible list contained the names of three individuals and promulgated on March 19, 2015 and expires on March 18, 2017.

<sup>3</sup> This function is now a part of the Division of Agency Services.

In support of his request for reconsideration, the petitioner first argues that he has "observed several instances" where individuals serving in the title of Environmental Specialist 4 were found to be eligible for the subject title. Similarly, he contends that an individual serving as an Environmental Specialist 4 who had "over 10 years [of] experience in a Supervisory title," but lacked the required three years of program management was found eligible for the subject examination. The petitioner next asserts that he has more than the three years of experience as a "manager" and previously submitted documentation to support his claim. Finally, the petitioner claims that in 2014, the Commission accepted out-of-title work in 16 instances and, other than his own appeal, did not deny any other similar appeals.

### CONCLUSION

*N.J.A.C. 4A:2-1.6(b)* sets forth the standards by which the Civil Service Commission may reconsider a prior decision. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

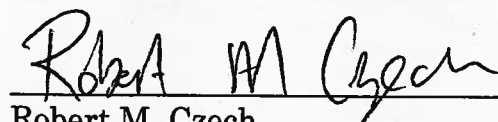
As described above, applicants had to possess, in relevant part, three years of *program management* experience to be eligible for the subject examination. On reconsideration, the petitioner does not submit any new evidence or additional information that would change the outcome of this case. Of particular note, the petitioner fails to provide any documentation from the appointing authority supporting his claim that he performed relevant out-of-title work. With regard to the petitioner's argument that another individual serving in the Environmental Specialist 4 title was found eligible for a previous examination for the same title, the Commission notes that eligibility is determined on the basis of each discrete announcement. Further, it cannot be emphasized enough that it is only the petitioner's claim that he served as an "acting" Environmental Specialist 4, a claim that has not been substantiated. Similarly, his claim that an individual serving as an Environmental Specialist 4 was possibly admitted to the current examination in error has no bearing in the instant matter. Additionally, because the petitioner did not name that individual, the Commission cannot fully evaluate the petitioner's claim. Regardless, in-title experience gained in the Environmental Specialist 4 title would be considered applicable to the title under test. In this regard, the Commission noted in its prior decision that even if it accepted the petitioner's out-of-title experience, he would still not satisfy the eligibility requirements. Accordingly, the petitioner has failed to show that a clear material error has occurred or present new evidence and his request for reconsideration is denied.

**ORDER**

Therefore, it is ordered that this request 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 6th DAY OF MAY, 2015



Robert M. Czech  
Chairperson  
Civil Service Commission

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and  
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**Attachment**

c: Jeffrey Meyer  
Deni Gaskill  
Kelly Glenn  
Joseph Gambino



STATE OF NEW JERSEY

In the Matter of Jeffrey Meyer,  
Manager 4 Environmental  
Protection, Technical, Scientific,  
Engineering (PS6834G), Department  
of Environmental Protection

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

Examination Appeal

CSC Docket No. 2015-350

DEC 22 2014

ISSUED:

(WR)

Jeffrey Meyer appeals the determination of the Division of Selection Services (Selection Services) which found that he was below the minimum requirements in experience for the promotional examination for Manager 4 Environmental Protection, Technical, Scientific, Engineering (PS6834G), Department of Environmental Protection.

The subject examination was announced with a closing date of February 1, 2014 and was open to applicants who possessed a Bachelor's degree in Environmental, Chemical, Physical or Biological Science, or Engineering, and five years of fulltime experience in the scientific/technical aspects of environmentally related activities, three years of which shall have been in program management. The record indicates that three applicants were admitted to the examination, which was held on November 18, 2014. As of the date of this decision, no eligible list has been issued.

On his application, the appellant indicated, in relevant part, that he possessed the required Bachelor's degree and has served as an Environmental Specialist 3, an "Acting Environmental Specialist 4," an "Acting Supervising Environmental Specialist," a Senior Environmental Specialist, an Environmental Specialist and an Environmental Specialist Trainee. However, agency records revealed that the appellant had served as an Environmental Specialist 3, a Principal Environmental Specialist, a Senior Environmental Specialist, an Environmental Specialist, and an Environmental Specialist Trainee. Selection Services credited the appellant with over 10 years of general experience. However, to the extent that Selection Services found his experience as an "Acting Environmental Specialist 4" and as an "Acting Supervising Environmental

Specialist," relevant, it determined that he was performing out-of-title work. Thus, Selection Services determined that the appellant lacked the required program management experience as of the closing date and was ineligible.

On appeal, the appellant highlights his experience as an "Acting Environmental Specialist 4" and as an "Acting Supervising Environmental Specialist," and contends that he has more than three years of the required program management experience. While the appellant concedes that such work is out-of-title, he claims that good cause exists to accept it because he was "performing the work due to permanent personnel vacancies within [his] work unit." The appellant also asserts that his current title of Environmental Specialist 3 and his previous title, Principal Environmental Specialist, are both Primary Level Supervisor titles. In support of his appeal, the appellant submit various Performance Assessment Review forms, some of which indicate that the appellant performs supervisory duties; a Position Classification Questionnaire; and the job specification for Environmental Specialist 3. It is noted that the appellant does not provide a letter from his supervisor to verify the out-of-title duties he performed during this time.

### 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.

Initially, Selection Services credited the appellant with 10 years of general experience, but determined that he lacked three years of experience in program management. The appellant contends that he performed relevant, but out-of-title, duties as an "Acting Environmental Specialist 4" and as an "Acting Supervising Environmental Specialist." Nevertheless, *N.J.A.C.* 4A:4-2.6(c) generally provides that applicants for promotional examinations may not use experience gained as a result of out-of-title work to satisfy eligibility requirements unless good cause exists. This is because constant, repeated or lengthy out-of-title work assignments of career service employees is damaging to the system, creates salary inequities and undermines the integrity of the classification plan. See *In the Matter of Suzanne M. F. Buriani-DeSantis* (CSC, decided July 30, 1985); and *In the Matter of Joyce Mutak* (MSB, decided February 24, 1987). Contrary to the appellant's assertion otherwise, his performance of out-of-title work due to a lack of personnel does not constitute good cause. Additionally, while the appellant asserts that he performed supervisory duties as an Environmental Specialist 3 and as a Principal Environmental Specialist, the possession of supervisory duties was not required for the subject examination. Rather, as noted above, applicants were required, in part, to possess three years of program management experience. Moreover, although the appellant submits various documents, including a Position Classification Questionnaire, to support his claim, a review of those materials does not demonstrate that he was responsible for program management. Finally, Selection Services determined that the appellant possessed only two years and 11 months of out-of-title program

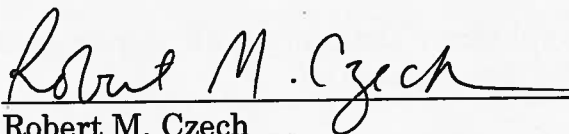
management experience. Thus, even if the appellant's out-of-title experience as an "Acting Environmental Specialist 4" and as an "Acting Supervising Environmental Specialist, is accepted, he still lacks one month of the required experience. A thorough review of all material presented indicates that the determination of Selection Services, that the appellant did not meet the announced requirements for eligibility by the examination closing date, is supported by the record. Therefore, the appellant has failed to support his burden of proof in this matter.

### ORDER

Therefore, it is ordered that this appeal 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 17<sup>TH</sup> DAY OF, DECEMBER 2015



Robert M. Czech  
Chairperson  
Civil Service Commission

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and  
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c: Jeffrey Meyer  
Deni Gaskill  
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