

B-62



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Danny Wong,
Manager 4 Environmental
Protection,
Technical/Scientific/Engineering
(PS1790G), Department of
Environmental Protection

Examination Appeal

CSC Docket Nos. 2016-4499

ISSUED: **JAN 20 2017** (SLK)

Danny Wong appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the experience requirements for the promotional examination for Manager 4 Environmental Protection, Technical/Scientific/Engineering (PS1790G), Department of Environmental Protection.

The examination at issue was announced with specific requirements that had to be met as of the November 21, 2015 closing date (see attached). A total of 10 employees applied for the subject examination that resulted in a list of 7 eligibles which promulgated on September 8, 2016 and expires on September 7, 2018.

Mr. Wong indicated on his application that he was provisionally serving in the subject title from November 2014 to the November 21, 2015 closing date, a Research Scientist 1 from June 2013 to November 2014, a Research Scientist 2 from April 2003 to June 2013, a Research Scientist 3 from April 2000 to April 2003, and an Environmental Engineer with Pacific Environmental from May 1994 to April 2000. He also indicated that he had a Bachelor's degree in Chemical Engineering and a Master's degree in Environmental Engineering. Agency Services credited him with having met the education requirement, the general experience requirement, and two years and six months of applicable supervisory experience, but determined that he lacked six months of applicable supervisory experience.

On appeal, Mr. Wong highlights his experience and education. He presents that as a Research Scientist 2, he began performing supervisory duties in 2004. While he acknowledges that Research Scientist 2 is a non-supervisory title, he asserts that due to business necessity, he was asked to perform out-of-title supervisory duties while serving in this title from 2004 to 2012. The appellant submits copies of Performance Evaluations (PES) that he signed for subordinate staff and organization charts as evidence that he was performing out-of-title supervisory duties as a Research Scientist 2.

Additionally, the appointing authority submits a letter in support of his appeal requesting that his out-of-title work be accepted. It confirms that he has been performing supervisory duties since March 2004 when a former supervisor took another position. It highlights that Agency Services determined that Mr. Wong's position be reclassified to Research Scientist 1 effective June 29, 2013. The appointing authority asserts that if his out-of-title were accepted between March 2004 to June 2013, Mr. Wong would have nine years and three months of applicable supervisory experience.

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. *N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open-competitive requirements may not use experience gained as a result of out-of-title work to satisfy the requirements for admittance to the examination or for credit in the examination process. *N.J.A.C.* 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

A review of the record indicates that Agency Services correctly determined that the appellant is not eligible for the subject examination. Agency Services credited the appellant with having met the education requirement, general experience requirement, and having two years and six months of applicable supervisory experience by the November 21, 2015 closing date, but determined that he lacked six months of applicable supervisory experience. As acknowledged by the appellant, any applicable supervisory experience he gained as a Research Scientist 2 would be considered out-of-title work. Out-of-title work is generally not acceptable for admittance to promotional examinations with open competitive requirements. 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); *In the Matter of Joyce Mutak* (MSB, decided February 24, 1987). In this matter, there is no basis on which to accept the appellant's out-of-title experience as the list contains seven eligibles and there are only three employees, including the appellant, who are

serving provisionally in the subject title. Moreover, while the appellant has presumably accrued sufficient supervisory experience after the closing date of the examination, given that the list is complete there is not good cause to relax *N.J.A.C.* 4A:4-2.6(a) and accept his experience after the closing date.

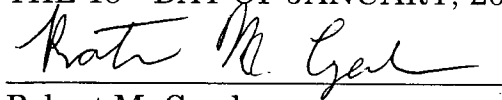
Therefore, there is no basis to disturb the decision of Agency Services. Accordingly, Mr. Wong has not met his burden of proof in this matter.

ORDER

Therefore, it is ordered that the 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 18th DAY OF JANUARY, 2017



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Danny Wong
Robin Liebeskind
Kelly Glenn
Records Center

NEW JERSEY CIVIL SERVICE COMMISSION-STATE SERVICE
PROMOTIONAL ANNOUNCEMENT



Click here to file Online Print
\$25.00 PROCESSING FEE REQUIRED
Make Check/Money Order Payable to NJCSC

SYMBOL: PS1790G

WEIGHT CODE: *

TITLE: MANAGER 4 ENVIRONMENTAL PROTECTION
TECHNICAL/SCIENTIFIC/ENGINEERING

SALARY: \$73,868.00 - \$107,118.00

ISSUE DATE: November 01, 2015

CLOSING DATE: November 21, 2015

TITLE CODE: 61626C/W6RXR8

CLASS CODE: 32

DEPARTMENT: EPA/ENVIRONMENTAL PROTECTION

APPLICATION DEADLINE: May 23, 2016

UNIT SCOPE: G770 Division of Air Quality

Visit www.state.nj.us/csc
And select "Job Announcements"
to view this announcement and to file an application

Open to employees in the non-competitive division who are currently serving in a title to which the announcement is open and have an aggregate of one year of continuous permanent service as of the closing date in the following title(s), and meet the requirements listed below:

Research Scientist I

Or to employees in the competitive division who have an aggregate of one year of continuous permanent service as of the closing date in any competitive title and who meet the requirements listed:

Education: Graduation from an accredited college or university with a Bachelor's degree in Engineering or one of the biological, chemical, environmental, or physical sciences. You must specify the type of degree(s) you have on your application. (Foreign degrees/transcripts must be evaluated by a recognized evaluation service.) Failure to do so will result in rejection from the examination process.

Possession of a valid Professional Engineer's License issued by the New Jersey State Board of Professional Engineers and Land Surveyors may be substituted for the Bachelor's degree in Engineering. You must indicate all licenses that you possess on your application. Be sure to include the grade of each license and the date it was issued to you. Failure to do so will result in rejection from the examination process.

Experience: Five (5) years experience the scientific/technical or engineering aspects of environmentally related activities, three (3) years of which shall have been in a supervisory capacity.

A Master's degree in a discipline appropriate to the position (see specific areas listed above) may be substituted for one year of the experience as indicated.

A Doctorate degree in a discipline appropriate to the position (see specific areas listed above) may be substituted for two (2) years of the experience as indicated. (This is inclusive of the Master's degree and not in addition to.)

You must indicate the details of your Master's/Doctorate degree on your application. (Foreign degrees/transcripts must be evaluated by a recognized evaluation service.) Failure to do so will result in rejection from the examination process.

License: Appointees will be required to possess a driver's license valid in

New Jersey only if the operation of a vehicle, rather than employee mobility, is necessary to perform essential duties of the position. The responsibility for ensuring that employees possess the required motor vehicle license, commensurate with the class and type of vehicles they operate, rests with the Appointing Authority.

Note: This announcement may be tested via the Management Test Battery (MTB). Under the guidelines of the MTB program, an applicant's score will be retained and applied to subsequent promotional or open competitive announcements for titles tested under this program. For information regarding the Management Test Battery, please refer to our website <http://www.state.nj.us/csc/seekers/about/steps/step7.html>

NOTE: All requirements must be met as of the above closing date, however applications will be accepted up to and including May 23, 2016.

SPECIAL NOTE: If you filed an application for this announcement during the original posting period and would like to supplement your original application due to the corrected requirements listed above, please send your supplemental information to NJCSC, PO Box 322, Trenton NJ 08625 and include a copy of this announcement. Please do not send a new application and fee.

Amended 5/1/16

IMPORTANT INFORMATION

1. NJAC 4A:4-2.6 states that all requirements listed, including assignment to the department and unit scope, must be met as of the closing date.
2. ONLY ON-LINE APPLICATIONS WILL BE ACCEPTED. YOU MUST COMPLETE YOUR APPLICATION IN DETAIL. Your score may be based on a comparison of your credentials with the job requirements. Failure to complete your application properly may lower your score or cause you to fail.
3. This examination is open to full- and part-time permanent employees. If an employment list results from this announcement, it may be certified to fill full-time and part-time positions. If 35- and 40-hour positions are used within the unit scope, the resulting list may be used to fill either work week position.
4. NJAC 4A:4-1.5 states that any employee who is serving on a provisional basis and who fails to file for and take an examination which has been announced for his/her title SHALL BE SEPARATED FROM THE PROVISIONAL TITLE.
5. In accordance with Public Law 2010 c.26, Veterans pay a reduced application fee of \$15.00 if they have previously established Veterans Preference with the DMAVA (as defined by N.J.S.A. 11A:5-1 et seq.), or your claim is approved by DMAVA at least 8 days prior to the issuance of this eligibility list. PLEASE NOTE THIS REDUCED FEE DOES NOT APPLY TO PUBLIC SAFETY TITLES.
6. SPECIAL NOTE TO ALL APPLICANTS Please make sure you are assigned to the unit scope indicated above. If you do not know your unit scope assignment, please contact your Human Resource Office. If you file an application for this announcement and you are not assigned to the unit scope indicated above, YOU WILL BE FOUND INELIGIBLE FOR THIS EXAM AND YOUR APPLICATION FEE WILL NOT BE REFUNDED.
7. If you are having difficulty submitting your application online, technical support and customer care are available during regular business hours, 8:00 a.m. to 4:00 p.m. EST, Monday - Friday, excluding holidays and emergency closings. Please Email: OAS.support@csc.state.nj.us or call (609) 292-4144. Please note that application support requests received outside regular business hours on the closing date will not change the application filing deadline so PLEASE FILE EARLY.

DPP-256A * Revised 03/09