

## STATE OF NEW JERSEY

In the Matter of Mostafa Soltani, Principal Engineer Transportation (PS3747T), Department of Transportation FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

:

**Examination Appeal** 

CSC Docket No. 2017-3768

**ISSUED:** May 4, 2018 (JH)

Mostafa Soltani appeals the determination of the Division of Administrative Services and Logistics denying his request for a make-up examination for Principal Engineer Transportation (PS3747T), Department of Transportation.

By way of background, the subject examination was administered on March 25, 2017. The appellant filed a request on March 18, 2017, in which he explained that he had surgery to repair his broken right arm and hand and he was unable to use his right hand. In support of his request, the appellant submitted a Rothman Institute form dated March 25, 2017, signed by his physician, Dr. Surena Namdari, which provides a diagnosis and requests that the appellant be excused "from scheduled exam due to increased pain;" a Department of Transportation Application for Leave of Absence form for leave from March 9, 2017 through April 24, 2017; a Medical Authorization for Make-up Examination form signed and dated April 20, 2017 by Dr. Namdari; and copies of two x-rays of his right arm. In a letter dated May 10, 2017, the Division of Agency Services indicated that the appellant's request did not meet the criteria pursuant to *N.J.A.C.* 4A:4-2.9.

## CONCLUSION

*N.J.A.C.* 4A:4-2.9(b) provides that for professional level engineering promotional examinations, make-ups may be authorized only in cases of:

1. Debilitating injury or illness requiring an extended convalescent period, provided the candidate submits a doctor's certification

containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination;

- 2. Death in the candidate's immediate family as evidenced by a copy of the death certificate;
- 3. A candidate's wedding which cannot be reasonably changed as evidenced by relevant documentation;
- 4. When required for certain persons returning from military service; or
- 5. Error by the Civil Service Commission or appointing authority.

In the present matter, it is noted that the information the appellant presents does not technically meet the criteria for a make-up pursuant to *N.J.A.C.* 4A:4-2.9. However, given that the appellant provided a form from Dr. Namdari in which he indicates that the appellant is unable to sit for the subject test due to pain, a Medical Authorization form in which Dr. Namdari confirms that the appellant was unable to sit for the test on the administration date, and x-rays showing the extent of his injuries, it is appropriate to relax the governing provision on equitable grounds. Thus, the appellant should be provided with a make-up examination.

## **ORDER**

Therefore, it is ordered that this appeal be granted and the appellant be scheduled for a make-up 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 THE 2ND DAY OF MAY, 2018

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Chairperson

Civil Service Commission

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