



STATE OF NEW JERSEY

In the Matter of Drew Pangaldi,
Construction Management Specialist
3, Department of Corrections

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2018-2139

Examination Appeal

ISSUED: JUNE 22, 2018 (SLK)

Drew Pangaldi appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the experience requirements for the qualifying examination for Construction Management Specialist 3, Department of Corrections.

By way of background, the appellant’s credentials were reviewed to determine if he met the requirements for Construction Management Specialist 3, Department of Corrections. Agency Services evaluated the appellant’s credentials on January 9, 2018. The appellant indicated on his application that he possessed 12 college credits. Further, he indicated that he was provisionally serving as a Construction Management Specialist 3 from September 2017 to the January 9, 2018 evaluation date, an Assistant Engineer-in-Charge of Maintenance 1 from June 2016 to September 2017, a Crew Supervisor Building Maintenance Programs from October 2011 to June 2016, a Plumber and Steamfitter from December 2009 to October 2011 and various positions in the private sector. However, Agency Services determined that the appellant did not meet the requirements for the subject title and did not pass the qualifying examination. In this regard, it is noted that the requirements for Construction Management Specialist 3 are graduation from an accredited college or university with a Bachelor's degree and three years of experience in the field of architecture, engineering, project management, construction contract management, financial contract management, facilities contract management, facilities management, construction quality assurance or related area involving complex building projects. Additionally, applicants who did not possess the required

education could have substituted additional experience on a year-for-year basis with 30 semester hour credits being equal to one year of experience. Agency Services credited the appellant with four months of experience based on his 12 college credits, but determined that he lacked six years and eight months of experience. It is noted that Agency Services did not credit the appellant for his provisional service in the subject title as the appellant did not describe the actual duties that he performed in this title and instead just copied the job specifications.

On appeal, the appellant acknowledges that he did copy the job specifications for his provisional experience in the subject title and therefore he understands why he did not receive credit for this experience. However, the appellant questions why he did not receive credit for his experience as an Assistant Engineer in Charge of Maintenance 1 and Crew Supervisor Building Maintenance Programs. He explains that these titles are specifically used by the appointing authority for the maintenance and management of facilities. The appellant provides an updated resume to clarify his duties. Further, Elizabeth Whitlock, Manager 3, Human Resources, submits a letter in support of the appellant's appeal. Specifically, Ms. Whitlock explains that the appointing authority uses the Assistant Engineer in Charge of Maintenance 1 and Crew Supervisor Building Maintenance Programs titles as facility managers due to business necessity due to the aging conditions of the buildings and the atypical infrastructure of its organization. She requests that the Civil Service Commission (Commission) recognize the appointing authority's correctional facilities' extraordinary structure along with the unique duties that are assigned to the different positions within the appointing authority and accept the appellant's experience in these titles as applicable experience.

CONCLUSION

N.J.A.C. 4A:4-7.6(c) provides, in pertinent part, that if the nature of the work, education and experience qualifications of both titles are dissimilar for a lateral title change, then the employee shall be appointed pending examination.

N.J.A.C. 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

In the instant matter, Agency Services correctly determined that the appellant is not eligible for the examination. A "Qualifying Examination" requires a candidate to demonstrate that he or she possesses the necessary experience for a particular title in order to effect a lateral or promotional transfer to the title with permanent status. Since a determination of eligibility equates to a candidate passing this type of examination, and generally results in the candidate's appointment, pending a qualifying examination, being changed to a permanent appointment, it is imperative that the candidate unambiguously indicates his or her experience on the application. This information is crucial, because it is essentially equivalent to correct responses

on a multiple-choice, or “assembled” examination. Thus, the Commission must primarily focus on the “test papers,” *i.e.*, the original application materials presented to Agency Services for review, and determine if an “error” was made in the “scoring” of the test or other noncompliance with Civil Service law and rule. Against this backdrop, it is noted that *N.J.A.C. 4A:4-2.1(f)* specifically provides that examination applications may only be amended prior to the filing date. Thus, the information regarding additional experience provided on appeal cannot be considered in this case. To do so would be tantamount to alteration of an answer sheet following the administration of an assembled examination. In this connection, it is important to note that the application cautions applicants that if an unassembled examination were held, failure to complete the application properly could lower the score or cause a candidate to fail. *See In the Matter of Palmer Askin, et al.* (MSB, decided February 26, 2003). Thus, particularly in the “Qualifying Examination” process, a significant amount of additional information would not be considered clarifying information, which may be allowed, but rather, amended information, which is not permitted after the closing date of an examination. *See In the Matter of Kathleen Gandy* (MSB, decided July 13, 2005). Accordingly, Agency Services correctly did not credit the appellant for his provisional experience in the subject title as simply quoting the duties contained in the job specification on an application is not a sufficient basis on which to determine if a candidate’s *specific* duties would meet the requirements for an examination. Candidates must demonstrate that the duties they perform qualify them for the examination title. *See In the Matter of Maxsine Allen and Vivian Stevenson* (MSB, decided March 10, 2004). Additionally, the appellant’s attempt to clarify his provisional experience on appeal is considered an amendment and not clarification for the aforementioned reasons and therefore he cannot receive credit for this experience.

Further, incumbents in the subject title (class code 24) perform the design, project control, cost estimation, contract administration, quality assurance, scheduling and control activities involved in capital construction, public work projects or programs administered by the division. Incumbents in the Crew Supervisor Building Maintenance Programs (class code 18)¹ title have charge of building maintenance programs and activities, including painting, masonry, carpentry, plumbing, plastering, steam fitting and in some instances, building construction, grounds keeping and automotive maintenance work. Therefore, although experience gained in the Crew Supervisor Building Maintenance Program title may encompass some of the duties of the subject title, the duties of this title, based on its class code designation, is not at the level and scope required for applicable experience for the

¹ The appellant also argued that his experience as an Assistant Engineer in Charge of Maintenance 1 (class code 24) was applicable. When evaluating the specific duties that the appellant indicated on his resume for the qualifying examination, Agency Services determined that his experience was not at the required level and scope. However, the Commission need not decide this issue as, even if this experience was credited, the appellant would still not have met the experience requirements for the qualifying examination as detailed in this decision.

subject title. Consequently, Agency Services correctly did not credit the appellant for this experience. See *In the Matter of Paula Pilitowski* (MSB, decided September 22, 2004).

Moreover, even if the appellant received credit for his provisional experience in the subject title, his experience as an Assistant Engineer in Charge of Maintenance 1 and his experience as a Crew Supervisor Building Maintenance Programs, he would still lack the required experience. Per the substitution clause, the appellant needed seven years of experience. The appellant served in the aforementioned titles from October 2011 to the January 9, 2018 evaluation date, which is six years and four months of experience. Therefore, at most, including the appellant's four months of experience based on his education, he lacked four months of experience as of the evaluation date.

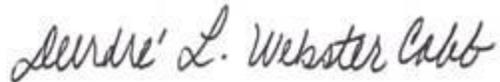
One other issue needs to be addressed. The appointing authority indicates that it uses the Crew Supervisor Building Maintenance Programs and other titles as facility managers due to its business necessity. Therefore, it requests that the Commission recognize the appointing authority's unique organizational structure and consider the appellant's experience in this title as applicable experience. However, while it is true that deference is accorded to State agencies in establishing their internal organizational structure, it is the Commission's responsibility to develop and administer the State Classification plan. See *In the Matter of Gloria Iachio*, Docket No. A-3216-89T3 (App. Div., Jan. 10, 1992). Accordingly, similar to a promotional examination, out-of-title work is generally not acceptable for admittance to qualifying examinations for a lateral or promotional title change. 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); See also, *In the Matter of Joyce Mutak* (MSB, decided February 24, 1987). Therefore, even if the appellant was performing the required duties for the subject title at an applicable level and scope while serving as a Crew Supervisor Building Maintenance Programs, there is no good cause to relax the rules because, unlike a promotional examination where rules can be relaxed because an appointing authority is entitled to appoint from a complete list, there is no such entitlement for a qualifying examination. Moreover, if the appointing authority's existing organizational structure is not sufficiently supported by the titles currently in the State Classification plan, the place to address this issue is not during a qualifying examination. Instead, the appointing authority should petition the Commission to modify the plan to meet its needs. See *In the Matter of Tina Elbertson and Allison Sheppard* (CSC, decided March 9, 2017).

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 20th DAY OF JUNE, 2018



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Drew Pangaldi
Elizabeth Whitlock
Kelly Glenn