



STATE OF NEW JERSEY

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

In the Matter of Jose Dias, Road
Repairer 2/Sign Maker 2 (PM2458W),
Elizabeth

Examination Appeal

CSC Docket No. 2020-908

ISSUED: NOVEMBER 8, 2019 (HS)

Jose Dias appeals the determination of the Division of Agency Services (Agency Services), which found that he did not meet the experience requirement for the promotional examination for Road Repairer 2/Sign Maker 2 (PM2458W), Elizabeth.

The subject examination was announced with a closing date of November 21, 2018 and was open to employees who completed a vocational, technical or specialized training program in graphic arts, graphic and printing communications or graphic arts technology; possessed two years of experience in work involving sign design, layout and lettering, or graphic arts (sign maker experience); and possessed two years of experience in the cleaning, maintenance and repair of roads or streets which may include work involving the installation and maintenance of traffic lines and signs (road repairer experience). Applicants who did not possess the required education could substitute one year of additional sign maker experience. The resulting eligible list containing the name of one eligible promulgated on September 12, 2019 and expires on September 11, 2022.¹ A certification issued from the list on September 16, 2019, but it has not yet been returned.

On his application, the appellant did not indicate possession of the required education. Therefore, pursuant to the substitution clause for education, the appellant needed three years of sign maker experience. The appellant indicated, in

¹ The lone eligible had originally been deemed ineligible for the examination but successfully appealed that determination. See *In the Matter of Domenico Sacca* (CSC, decided August 14, 2019).

pertinent part, his experience as a provisional Road Repairer 2/Sign Maker 2 from October 2017 to November 2018 and Road Repair Supervisor from January 2012 to October 2017, both with Elizabeth. Agency Services determined that the appellant possessed five years and nine months of road repairer experience based on his service as Road Repair Supervisor and one year and one month of both sign maker experience and road repairer experience based on his service as provisional Road Repairer 2/Sign Maker 2. Therefore, Agency Services deemed the appellant ineligible since he lacked one year and 11 months of sign maker experience and thus did not meet the experience requirement set forth in the announcement.

On appeal to the Civil Service Commission (Commission), the appellant states that he was the “acting” Road Repairer 2/Sign Maker 2 from October 2016 to October 2017 making stop signs, pedestrian signs, street identification signs, street cleaning signs and other needed signs. In support, the appointing authority confirms that due to budgetary constraints, the appellant performed the duties of the Road Repairer 2/Sign Maker 2 title, out-of-title, from October 2016 through October 2017.

Agency records indicate that the appellant continues to serve provisionally in the subject title.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)2 provides that applicants shall meet all requirements specified in the promotional examination 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 may not use experience gained as a result of out-of-title work to satisfy eligibility requirements. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause shown in a particular situation.

Initially, Agency Services correctly determined that the appellant was ineligible for the subject examination because he lacked the requisite amount of creditable experience as of the November 21, 2018 closing date. On appeal, the appellant essentially states that he gained applicable sign maker experience from October 2016 to October 2017 as the “acting” Road Repairer 2/Sign Maker 2 while serving in the title of Road Repair Supervisor. Although there is no such designation as an “acting” appointment under Civil Service rules and the appellant’s performance of Road Repairer 2/Sign Maker 2 duties during that timeframe would be considered out-of-title work, the appointing authority confirms his performance of these duties. This represents one year of additional applicable experience. Further, the appellant received a provisional appointment to the title of Road Repairer 2/Sign Maker 2 in October 2017 and continues to serve in that capacity. As such, the Commission finds that, for examination eligibility purposes, he has been performing the duties of the title under test since October 2016. Thus,

the appellant now possesses enough applicable experience based on this service. Additionally, the record evidences that the examination situation is not competitive since the eligible list promulgated with the name of only one eligible. Under these circumstances, good cause exists to accept the appellant's out-of-title work experience and provisional experience after the closing date, for eligibility purposes only, and admit him to the examination.

ORDER

Therefore, it is ordered that this appeal be granted and the appellant's application be processed for prospective employment opportunities.

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 NOVEMBER, 2019



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