



**STATE OF NEW JERSEY**

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

**Examination Appeal**

In the Matter of  
Herbert Ackerman Jr.,  
Public Works Inspector,  
Montville Township

CSC Docket No. 2019-3734

**ISSUED:** July 31, 2019 (RE)

Herbert Ackerman Jr., a permanent General Supervisor Public Works in Montville Township appeals the determination of the Division of the Agency Services (Agency Services), which found that he was below the minimum requirements in experience for a qualifying examination for Public Works Inspector.

By way of background, the appellant was appointed provisionally, pending a qualifying examination (PAQ), in the Public Works Inspector title effective April 1, 2015. Agency Services processed a qualifying examination for the appellant, to determine if he possessed the necessary qualifications for the subject title and he failed. The requirement for Public Works Inspector is one year of experience in the construction or installation of roads, water mains, sewer lines, or similar public works construction activities involving the reading and interpretation of blueprints, plans, specifications, and engineering drawings or surveying techniques directly related to public works construction. The appellant has not yet been returned to his permanent title, General Supervisor Public Works.

On his qualifying examination application, the appellant indicated that he was a Public Works Inspector from January 1985 to the present. He attached a resume with one set of duties. Official records indicate a different employment history. Those records indicate that the appellant was a Public Works Inspector from April 2015 to the June 7, 2019 qualifying examination determination date; General Supervisor Public Works from January 2013 to April 2015; Road Repairer Supervisor from January 2007 to January 2013; Equipment Operator from February 1997 to January 2007; Truck Driver from January 1988 to February 1997;

and Laborer 1 from January 1985 to January 1988. In its determination dated April 26, 2019, Agency Services determined that none of his experience was applicable, and he was found to be lacking one year of applicable experience. As he did not meet the minimum requirements, he did not pass the qualifying examination for the subject title.

On appeal, the appellant argues that he has been doing the duties listed on the job specifications for several years in the title Public Works Inspector. He provided an updated resume that included the examples of work from the job specifications, word for word, for the titles Public Works Inspector and General Supervisor Public Works.

## 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.

At the outset, it must be underscored that a “Qualifying Examination” requires 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 Selection 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). Additionally, in order for experience to be considered applicable, it must have as its primary focus full-time responsibilities in

the areas required in the announcement. *See In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004).

A review of the appellant's application reveals that he does not meet the experience requirements for Public Works Inspector. The only duties that the appellant has provided regarding his current position as a Public Works Inspector are as follows:

Responsible for all operations of the Public Works Department; winter storms, lawn cutting, building maintenance, road repair, curb repair, tree issues of all kinds, athletic field maintenance, sports fields construction, fleet maintenance; responsible for budgeting and purchasing items, including operating budgets and capital budgets for fleet, facilities and roads; recordkeeping of attendance, timecards, DEP permits for fuel tanks and generators, monthly reports, and safety training.

Thus, the majority of his duties do not evidence that he primarily performs the duties required to establish eligibility for Public Works Inspector. Indeed, based on his submission, the duties performed by the appellant in the title appear to be consistent with those of a General Supervisor Public Works. A Public Works Inspector makes field inspections of a variety of public works construction projects to ensure compliance with plans, specifications, and standards of workmanship. If the appellant is performing the above duties in his provisional position as a Public Works Inspector, his position is misclassified. None of the duties of the appellant's prior-held titles has the required duties as the primary focus. Since this type of examination is performed in support of a demotional title change, it is necessary not only to have the requisite experience for the title, but for the title to be utilized to be appropriate for the position. In other words, it is questionable if the title is appropriate for the appellant's position.

On appeal, the appellant copies the examples of work from the job specifications for Public Works Inspector and his prior held title General Supervisor Public Works. Simply quoting the duties contained in the job specifications 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. As noted above, candidates must demonstrate that the duties they perform qualify them for admission to the examination. *See In the Matter of Maxsine Allen and Vivian Stevenson* (MSB, decided March 10, 2004). *N.J.A.C. 4A:3-3.4* requires that employees be appointed to a title appropriate to the duties to be performed in the title and not be assigned duties other than those properly pertaining to the assigned title which the employee holds. As such, the appellant is not eligible for the subject position and the appellant's position appears to be misclassified as a Public Works Inspector. Under

these circumstances, the matter of the appellant's provisional position classification is referred to Agency Services for review.

Agency Services correctly determined that the appellant did not pass the subject qualifying examination. Therefore, he has failed to support his burden of proof in this matter.

**ORDER**

Therefore, it is ordered that this request be denied, and the matter of the appellant's provisional position classification be referred to Agency Services for review

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 31<sup>st</sup> DAY OF JULY, 2019



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