



STATE OF NEW JERSEY

In the Matter of John Sutera,
General Supervisor Roads
(PM2813W), Fort Lee

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

CSC Docket No. 2019-3317

Examination Appeal

ISSUED: AUGUST 2, 2019 (JET)

John Sutera appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the experience requirement for the promotional examination for General Supervisor Roads (PM2813W), Fort Lee.

The subject examination with specific requirements that had to be met as of the November 21, 2018 closing date. The requirements were four years of experience in work involving the construction, maintenance, and repair of roads, one year of which shall have been in a supervisory capacity. It is noted that the subject examination was cancelled on May 29, 2019 as the only applicant, the appellant, was found ineligible for the examination.

A review of the appellant’s application reveals that he listed that he served provisionally in the subject title from March 2018 to the November 21, 2018 closing date, and as a Heavy Equipment Operator from August 1996 to March 2018.

Agency Services credited the appellant with 10 years of applicable general experience and with nine months of supervisory experience. However, it did not credit him with any other supervisory experience for his work as a Heavy Equipment Operator as such work would constitute out-of-title work experience for that title which is generally not creditable. Accordingly, Agency Services determined that the appellant was ineligible for the subject examination as he lacked three months of applicable supervisory experience.

On appeal, the appellant asserts, among other things, that his duties as a Heavy Equipment Operator included overseeing employees. Moreover, the appellant states that he has been supervising employees since he was provisionally appointed to the subject title and he continues to perform such work. As such, the appellant maintains that he is qualified for the examination.

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

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:1-1.2(c) provides that a rule may be relaxed for good cause in a particular situation.

Initially, it is noted that Agency Services correctly credited the appellant with nine months of applicable supervisory experience based on his provisional service in the subject title. Although the appellant indicated on his application that he performed supervisory duties while serving as a Heavy Equipment Operator, without verification, the Civil Service Commission (Commission) cannot credit him with the purported out-of-title work. However, a review of the record indicates that the appellant continues to serve provisionally in the title under test. The appellant now has enough applicable supervisory experience based on this service. Additionally, the situation is not competitive as the appellant was the only applicant and the examination was cancelled. Under these circumstances, good cause exists to relax the provisions of *N.J.A.C.* 4A:4-2.6(a) and accept the appellant's provisional supervisory experience after the closing date, for eligibility purposes only, and to admit him to the examination.

ORDER

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

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 31st DAY OF JULY, 2019

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