



STATE OF NEW JERSEY

In the Matter of Akie May, Laborer 2,
(PM0482A), City of Orange

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

CSC Docket No. 2020-957

Examination Appeal

ISSUED: January 17, 2020 (RAM)

Akie May appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the experience requirements for the promotional examination for Laborer 2 (PM0482A), City of Orange.

By way of background, the announcement for the subject examination was issued on April 1, 2019 and was open to employees in the non-competitive division who were serving as a Laborer 1 and possessed an aggregate of one year of continuous permanent service as of the April 22, 2019 closing date. In addition, applicants were required to possess one year of experience in manual labor work. Three employees applied, and one was determined eligible. As the appellant did not list any experience on his application, Agency Services found him ineligible for failing to complete his application. An incomplete list, containing the name of the one eligible employee, promulgated on September 19, 2019 and expires on September 18, 2022. It is noted that a certification was issued on September 23, 2019 and has not yet been disposed.

On appeal to the Civil Service Commission (Commission), the appellant, a Laborer 2,¹ submits a signed notarized statement stating that on April 18, 2019 while completing an online application for the subject examination, he received error messages. On April 22, 2019, he contacted this agency to see if his application was

¹ Agency records indicate that the appellant has been serving as a Laborer 2, provisionally pending promotional examination procedures since October 1, 2018, and has more than one year of permanent service as a Laborer 1. In that regard, he was appointed on September 5, 2006 as a Laborer 1 and then laid off on January 7, 2011. He was reappointed as a Laborer 1 from a special reemployment list effective August 8, 2011.

processed and was advised that everything went through and he would hear something within five to eight months. Thus, he did not realize that his experience was not included.

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:4-2.1(f) provides that an applicant may amend a previously submitted application only prior to the announced closing date. *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause in a particular circumstance in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Agency Services determined that the appellant was not eligible for the subject examination as he did not list any experience on his application. On appeal, the appellant describes how he had contacted this agency to determine if his application was processed due to the difficulties he alleged he had while filing for the examination. However, it is unclear what information was given to the appellant to resolve this issue. Nonetheless, a review of agency records indicates that the appellant meets the required one year of continuous permanent service as a Laborer 1. It is noted that, although the appellant's experience was not listed on the online application, it is clear that he has many years of experience as a Laborer 1, whose primary function is performing varied types of manual and unskilled laboring work. The appellant was appointed as a Laborer 1 in 2006 and reappointed from a special reemployment list in 2011. Moreover, he has been serving provisionally in the Laborer 2 title since October 1, 2018. Furthermore, the subject eligible list is incomplete. The Commission emphasizes that the dual purpose of the Civil Service system is to ensure efficient public service for State and local governments and to provide appointment and advancement opportunities to Civil Service employees based on their merit and abilities. These interests are best served when more, rather than fewer, individuals are presented with employment opportunities. See *Communications Workers of America v. New Jersey Department of Personnel*, 154 *N.J.* 121 (1998). Under the circumstances presented, the Commission finds that there is good cause to relax *N.J.A.C.* 4A:4-2.1(f) and allow the appellant's name to be added to the eligible list for prospective opportunities.

Finally, the Commission notes that the appellant's remedy is based on the particular circumstances of this matter, and cautions the appellant that for future examination announcements, he must ensure that his application has been fully completed prior to the closing date. As this remedy is limited to the unique circumstances of this matter, it does not provide a precedent in any other matter.

ORDER

Therefore, it is ordered that the appeal be granted.

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 15th DAY OF JANUARY, 2020

Deirdre' L. Webster Cobb

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