



STATE OF NEW JERSEY

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

In the Matter of Michael Cassidy,
Assistant Public Works
Superintendent (PM1015A), Teaneck

CSC Docket No. 2020-1723

Examination Appeal

ISSUED: January 30, 2020 (RE)

Michael Cassidy appeals the decision of the Division of Agency Services (Agency Services) which found him ineligible for the promotional examination for Assistant Public Works Superintendent (PM1015A), Teaneck.

The subject examination had a closing date of August 21, 2019 and was open to employees in the competitive division who had an aggregate of one year of continuous permanent service as of the closing date and who were serving in the title General Supervisor Public Works or Supervisor Public Works OR in any competitive title and who met the open competitive requirements. These requirements included four years of supervisory experience in the construction, maintenance and repair of streets, sewer, water, sanitation or other public works facilities or similar heavy construction or maintenance work. Satisfactory completion of college level semester hour credits in engineering courses at an accredited college or university may be substituted for up to two years of experience on the basis of 30 semester hour credits being equal to one year of experience. One candidate appeared on the eligible list, and was appointed.

The appellant listed four positions on his application, provisional Assistant Public Works Superintendent, Supervisor Trees/Parks, and two positions as Tree Climber. On his resume, he listed his second position as Supervisor of Trees & Supervisor of Parks, and he added a position in sales. Official records indicate that the appellant was a provisional Assistant Public Works Superintendent from April 2019 to the closing date, a Tree Maintenance Supervisor from March 2010 to April 2019, and a Tree Climber from January 2007 to March 2010. The appellant was

credited with five months of experience in the first position, and was found to be lacking three years, seven months of applicable experience.

On appeal, the appellant states that he has more than enough experience, and the Civil Service Commission should accept his experience as a Supervisor of Trees and Supervisor of Parks. He also states that he was “acting” Assistant Public Works Superintendent from January 2019 to the closing date. The appellant provides lists of duties for these two positions and argues that his prior held title, in this case Tree Maintenance Supervisor, was similar enough to other acceptable titles that he exceeds the requirements. The appellant compares the duties that he has performed with the examples of work from the job specification for the subject title, although he does not identify which duty was performed in which title. He states that he has completed a Rutgers Certified Public Works Manager program. In support, the appointing authority states that the appellant exceeds the requirements as the staff is small so supervisors in Public Works must diversify and perform all projects that take place in the Township.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) 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 in pertinent part that 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, unless good cause is shown for an exception.

Agency Services correctly determined that the appellant was not eligible for the subject examination. The appellant was credited with five months in his provisional position. On his application, the appellant indicated that he was working out-of-title in an “acting” capacity since January 2019. If so, this would add three months of work and the appellant would still lack three years, five months of applicable experience. In this case, there is no claim of out-of-title work for more than three months, and the appellant’s duties as a Tree Maintenance Supervisor were not out-of-title. Qualifying experience must have as its primary focus the duties and responsibilities required for the title under test. As a Tree Maintenance Supervisor, the appellant was:

Responsible for daily operations of Tree and Parks Divisions comprised of 14 personnel. Duties include personnel assignments, work order generation, site visits and recommendations, customer inquiries, work prioritization, safety meetings, annual State reports, permits, contractor supervision for large and small scale outsourced projects, coordination with Recreation Department, preparation of all Township fields for sports seasons, maintenance and safety inspections of 24

Township Parks, 2 swimming pools, 1 dog park, maintenance of records and equipment pertaining to operations. Responsible for snow plowing/removal operations of all Public Works Divisions comprised of 23 personnel. Duties include pre-storm preparation of supplies and equipment, personnel assignments, observation of conditions, plowing, shoveling and snow removal coordination, record keeping, contractor assignments, storage and ordering of liquid calcium and rock salt.

The Tree Maintenance Supervisor position focuses on the supervision of maintenance of parks and trees, not the actual applicable construction, maintenance, and repair work. His position did not have the supervision of construction, maintenance and repair of streets, sewer, water, sanitation or other public works facilities, or similar heavy construction or maintenance work, as the primary function. It is noted that the work involved must match the experience requirement, not the examples of work, and the appellant's duties as a Tree Maintenance Supervisor did not involve supervision of construction.

The appellant's experience as a Tree Climber, and his position in sales, were inapplicable. As such, the appellant was appropriately found to be lacking three years, seven months of required experience.

Next, the requirements of *N.J.S.A.* 11A:4-13(b) allow for an appointing authority to certify that an appointee meets the minimum qualifications for the title at the time of appointment, but the fact that the appointing authority erroneously determined that a provisional appointee satisfies the minimum qualifications for the title prior to an actual eligibility determination by this agency, does not automatically establish a presumption of eligibility when the examination is announced. *See In the Matter of Cynthia Bucchi, Maria D'Angelo, Rosalind R. James, Carla M. Lewis, and Rhonda McLaren, Management Assistant (PS5831F), Department of Education*, Docket No. A-1266-04T2 (App. Div. February 27, 2006). Since the appellant does not meet the minimum qualifications for the title, contrary to *N.J.A.C.* 4A:4-1.5(a)2, he should be returned to his prior-held permanent title immediately upon receipt of this decision, and the duties of Assistant Public Works Superintendent be reassigned.

An independent review of all material presented indicates that the decision of Agency Services that the appellant did not meet the announced requirements for eligibility by the closing date is amply supported by the record. The appellant provides no basis to disturb this decision. Thus, the appellant has failed to support his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied, and the appellant be returned to his prior-held permanent title immediately upon receipt of this decision.

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 29th DAY OF JANUARY, 2020



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Michael Cassidy
Dean Kazinci
Kelly Glenn
Records Center