



STATE OF NEW JERSEY

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

In the Matter of Daniel Rusin,
Construction and Maintenance
Technician 4 (PS9418T), Department
of Transportation

Examination Appeal

CSC Docket No. 2020-742

ISSUED: JANUARY 31, 2020 (SLK)

Daniel Rusin appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the requirements for the promotional examination for Construction and Maintenance Technician 4 (PS9418T), Department of Transportation.

The subject examination announcement was announced open to employees serving in unit scope T505 who had one year of continuous permanent as a Construction and Maintenance Technician 5 by the March 21, 2019 closing date. Additionally, the education requirements were satisfactory completion of 15 college credits in engineering or engineering technology. The experience requirements were one year in inspecting or testing materials, reviewing permit applications, inspecting construction work, and/or construction/maintenance work requiring mathematical calculations to estimate materials or labor needed or used. Applicants who did not possess the required education could substitute additional experience as indicated above on a year-for-year basis with 30 semester hour credits being equal to one year of experience. A total of 23 employees applied and 19 were deemed eligible. Agency records indicate that there are currently 23 employees in the T505 unit scope who are serving provisionally in the subject title. Additionally, of the 19 employees that were admitted, 18 are serving provisionally in the subject title. The list has not yet promulgated as the test is scheduled to be administered on February 20, 2020.

Personnel records indicate that the appellant was provisionally appointed to the subject title on August 31, 2019, which is after the March 21, 2019 closing date, he was a permanent Construction and Maintenance Technician 5 from April 2018 to the closing date, and a provisional Construction and Maintenance Technician 5 from February 2017 to April 2018. The appellant also indicated on his application that he was an Inspector for various other employers from 2011 through 2016. Agency Services determined that the appellant was ineligible as he did not meet the one-year continuous permanent service requirement in a title to which the examination was open.

On appeal, the appellant explains that he was originally scheduled to take the open competitive test for the Construction and Maintenance Technician 5 (S0138V) examination on October 19, 2017. However, due to a bus fire in the Lincoln Tunnel which caused major traffic on the surrounding roadways that accessed the test facility, he arrived at the test late and was not permitted to take the test at that time. He submits documentation to show that there was a bus fire on this date that caused major delays. The appellant presents that the Construction and Maintenance Technician 5 list he was appointing from (S0138V) was initially certified (OS170710) on November 13, 2017. After being granted a make-up test on appeal, he took the test on December 14, 2017, which he passed. The appellant indicates that the appointments made on Certification OS170710 were effective March 3, 2018. The appellant asserts that if he had been able to take the S0138V test on October 19, 2017, his name would have been certified on OS170710 and he would have been permanently appointed as a Construction and Maintenance Technician 5, effective March 3, 2018. Further, this would have provided him the required one year of continuous permanent service in the title to which the examination was open for the subject examination as of the March 21, 2019 closing date. Therefore, the appellant argues that for the same reasons he could take a make-up test, he should be allowed to be considered to have met the continuous permanent service requirement for the subject examination. The appellant's supervisor, as well as a Supervising Construction Engineer, indicate that they support his appeal.

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. Further, *N.J.A.C.* 4A:1-1.2(c) states that the Civil Service Commission (Commission) may relax a rule for good cause in order to effectuate the purposes of Title 11A, New Jersey Statutes.

The subject examination was only open to employees in unit scope T505 who had one year of continuous permanent service in the title of Construction and Maintenance Technician 5 as of the March 21, 2019 closing date. As of the

announced closing date, based on the appellant's April 14, 2018 permanent appointment as a Construction and Maintenance Technician 5, he was several weeks short of the one-year continuous permanent service title. Therefore, Agency Services correctly determined that the appellant lacked the required continuous permanent service in a title to which the examination was open as of the closing date.

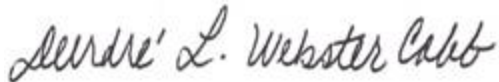
Although the appellant lacked the required continuous permanent service requirement as of the closing date, the record indicates that he was serving in the required title for more than one year as of the closing date based on his provisional appointment in February 2017. Additionally, the appellant potentially would have met the required continuous permanent service requirement if he was able to take the test on the date he was originally scheduled. Additionally, he was provisionally appointed to the subject title after the closing date and he continues to serve in that title. Moreover, agency records indicate that there are currently 23 employees in the unit scope to which the examination was open, T505, including the appellant, who are provisionally serving in the subject title. However, there are only 19 eligibles on the list, 18 of which are provisionally serving in the subject title. Consequently, the list should be rendered incomplete based on the number of anticipated appointments in the subject title. Therefore, while the appellant does not have one year of continuous permanent service as a Construction and Maintenance Technician 5 as of the closing date, under these circumstances, good cause exists to relax the provisions of *N.J.A.C. 4A:4-2.6(a)* and admit him to the subject examination.

ORDER

Therefore, it is ordered that this appeal be granted and Daniel Rusin'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 29th DAY OF JANUARY, 2020



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