



STATE OF NEW JERSEY

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

In the Matter of Daqing Song,
Department of Human Services

Administrative Appeal

CSC Docket No. 2020-636

ISSUED: JULY 20, 2020 (ABR)

Daqing Song, a Research Scientist 2 with the Department of Human Services (DHS), appeals the calculation of his salary under *N.J.A.C. 4A:3-4.9*.

By way of background, Song received a noncompetitive appointment to the title of Research Scientist 2 with the DHS, effective August 3, 2019. Prior to that appointment, Song had served in the competitive title of Research Economist 2 with the Department of Labor and Workforce Development from December 26, 2015 to August 2, 2019. Upon his appointment to the title of Research Scientist 2, Song's salary increased from \$73,309.54 (salary range P25, step 4) to \$73,767.82 (salary range P28, step 1).

On appeal to the Civil Service Commission (Commission), Song states that after the DHS's Office of Human Resources (Human Resources) offered him an appointment to the title of Research Scientist 2, it notified him via email on July 2, 2019 that it had requested that his salary be \$77,251.57 (salary range P28, step 2), based upon the promotional salary calculation rules contained in *N.J.A.C. 4A:3-4.9*. Nevertheless, Human Resources stated that it would not be able to provide final confirmation of the correct salary until this agency reviewed it. Human Resources indicated that the review would not occur until after he began working in the position. Song states that he accepted the offer with the belief that he would receive the above-noted salary. Song indicates that on August 9, 2019, Human Resources informed him via email that his salary would be \$73,767.82 (salary range P28, step 1) because

this agency did not consider his “Research Economist 2 position a related title to the Research Scientist 2.” Song argues that this agency erred in “overruling” DHS’s determination that he should be placed at step 2 of salary range P28 upon commencing his service as a Research Scientist 2. Specifically, he avers that, per *N.J.A.C.* 4A:3-4.9(b), he should have been placed at step 2 because the titles are closely related. In this regard, he submits that incumbents in both titles apply mathematic, statistical, and economic principles in analyzing populations with varied demographics; and utilize the same analytical tools, skills and methodologies. Song also asserts that the selection process was unjust because he relied upon the salary offer when considering the position and because his eventual salary was lower. In support, Song submits copies of both the July 2, 2019 and August 9, 2019 emails he received from Human Resources.

Despite an opportunity to do so, no response was submitted by the appointing authority.

The job specification for Research Economist 2 indicates that an individual in that title gathers, analyzes and interprets economic data; designs and conducts surveys and/or other economic research studies; utilizes economic and statistical principles, practices, and techniques to identify trends, analyze data, and develop forecasts; and formulates recommendations. The title requires possession of two years of comprehensive, technical research and analysis experience in the field of economics or a closely allied field having a strong economics orientation and which included satisfactory completion of at least one independently conducted economic research project of professional quality. A Doctorate degree in Economics in an area which may include a majority of coursework related to economics may be substituted for indicated experience and research project. Some “Examples of Work” are: 1) plans and conducts independent research to estimate, project, and forecast changes in employment, population, income, hours worked, supply and demand, industrial growth, and other indicators of economic activity; 2) compiles economic and statistical data relative to the area of assignment, and ensures the accuracy and integrity of the data; 3) analyzes and interprets data to evaluate economic factors, utilizes statistical software, and applies modeling and trend analysis techniques; 4) interprets economic data and trends and forecasts the impact on department/agency programs; 5) designs and conducts surveys utilizing sampling techniques and monitors experiments to obtain desired types of information; 6) prepares visual aide materials such as charts, graphs and diagrams to illustrate trends, forecasts, and the results of impact analysis; 7) may provide assignment and assistance to lower level Research Economist staff; 8) performs complex mathematical and statistical calculations; and 9) designs and prepares reports showing economic trends, changes in employment, workforce distribution and demographics, industrial growth, or other similar measures of economic activity; makes presentations in support of conclusions.

The job specification for Research Scientist 2 reveals that an individual in that title conducts research projects or participates in functional programs in a specified professional field; assumes appropriate administrative and scientific duties as delegated; heads complex projects and makes recommendations to the supervisor. The title requires a Master's degree in a discipline appropriate to the position and three years of full-time experience in a field appropriate to the position. A Doctorate in a discipline appropriate to the position may be substituted for two years of the required experience. Some "Examples of Work" are: 1) designs, coordinates, and implements specialized research and/or analytical programs of a complex, technical nature in consultation with department staff and in accord with existing administrative and fiscal guidelines; 2) submits proposals and recommendations for scientific research in compliance with appropriate research methodology and statistical techniques; 3) reviews and analyzes all publications and other documents pertaining to current research developments and disseminates information to research staff; 4) directs the control and maintenance of supplies and equipment to ensure availability for ongoing proposed research projects; 5) directs the control and maintenance of supplies and equipment to ensure availability for ongoing proposed research projects; 6) prepares sound, accurate reports relating to research, grant, and other activities containing findings, conclusions, and recommendations; 7) functions as scientific consultant in areas pertaining to specific expertise; 8) verifies the results of tests, examinations, and analyses made by technical staff; 9) maintains liaison with state, federal, academic, and other individuals to discuss and resolve issues of mutual concern; and 10) maintains essential records and files.

All Civil Service titles are assigned to an Occupational Group, which classifies titles by type. The title of Research Economist 2 is in Occupational Group 5 (Community Development and Social Sciences)¹ while Research Scientist 2 is in Occupational Group 2 (Physical Sciences and Statistics).² It is noted that both Occupational Group 5 and Occupational Group 2 are classified under the category of "Professional, Technical, and Managerial Occupations."³

¹ The Civil Service Commission's Occupational Code Dictionary (OCD) indicates that this subcategory includes occupations concerned with community and social service program planning and program development related to community service oriented programs.

² This subcategory in the OCD includes occupations concerned with the application of information processing methods and techniques to store, manipulate, transform, or present information by means of computer systems, including the development of application system software, hardware systems design, and telecommunication systems.

³ The United States Department of Labor (USDOL), Employment and Training Administration, organizes groups of jobs into "occupations" based on their similarities and defines the structure and content of occupations in the *Dictionary of Occupational Titles (DOT)*. The Employment and Training Administration reports that the occupational definitions are the result of "comprehensive studies of how similar jobs are performed in establishments across the nation and are composites of data collected from diverse sources." Thus, the term "occupation" as used in the DOT refers to this collective description of a number of individual jobs performed, with minor variations, in many establishments. Occupations are clustered into nine broad "categories," which are further divided into "divisions" and

The Salary Schedules in effect at the time of Song's appointment were, in part, as follows:

	Range P25	Range P28
INCREMENT	\$3,009.75	\$3,483.75
Step One	\$64,280.29	\$73,767.82
Step Two	\$67,290.04	\$77,251.57
Step Three	\$70,299.79	\$80,735.32
Step Four	\$73,309.54	\$84,219.07

CONCLUSION

In the instant matter, Song argues that his salary increase was improperly calculated under *N.J.A.C. 4A:3-4.9(b)*. *N.J.A.C. 4A:3-4.4(b)* provides, in part, that when an employee has separated from another State appointing authority and has been hired without an interruption in service, the employee may be placed up to and including that step of the salary range that the employee would receive if the employee had been continuously employed in the new agency. *N.J.A.C. 4A:3-4.9(b)* further provides that the salary calculation set forth in that subsection only applies when the following conditions are met:

1. Employees are appointed from their permanent title to a title with a higher class code following or subject to a promotional examination;
2. Employees are serving in a title which is reevaluated to a higher class code; or
3. Employees are appointed to a title with a higher class code, when the conditions in (b)1, 2, or 3 above are not applicable, provided the Chairperson or designee finds the following criteria are met:
 - i. The employee has served continuously in the lower title for at least four months immediately preceding the effective date of the advancement; and
 - ii. The service in the lower title provided significant preparation and training for service in the higher title.

N.J.A.C. 4A:3-4.9(e) provides, in pertinent part, that employees who do not meet the criteria in *N.J.A.C. 4A:3-4.9(b)* shall be placed on a step in the salary range of the

then into specific "groups." See *Dictionary of Occupational Titles, Volume 1, Fourth Edition, Revised 1991, Employment and Training Administration.*

title with the higher class code that is the same or next higher than the salary paid in the title with the lower class code.

Although *N.J.A.C.* 4A:3-4.9(b) does not define “significant preparation and training,” this agency has, as a matter of longstanding practice, utilized the placement of titles in individual occupational groups as an objective tool to make a myriad of determinations. For example, this agency utilizes a uniform and objective automated system to determine the layoff rights for all titles. This system uses occupational group categorizations, as recognized by the United States Department of Labor, and is an objective method for identifying job similarities as required by *N.J.A.C.* 4A:8-2.1. See *In the Matter of State Layoff Title Rights* (Commissioner of Personnel, decided May 24, 1996), *aff’d*, Docket No. A-5847-95T3 (App. Div. December 9, 1997). Accordingly, the Commission finds that the use of occupational groups to determine whether a previous title provided “significant preparation and training” for a new title is a valid and proper standard.

However, the Commission is required to review every appeal based on the particular record presented. See *In the Matter of Jose Gonzalez, Department of Human Services* (MSB, decided January 26, 2005). A review of the record in this matter clearly indicates that the position of Research Economist 2 does not provide “significant preparation and training” for the position of Research Scientist 2. In this regard, a review of the above noted job specifications reveals that individuals in the title of Research Economist 2 and individuals in the title of Research Scientist 2 perform significantly different functions. An individual in the title of Research Economist 2 gathers, analyzes and interprets economic data; designs and conducts surveys and/or other economic research studies; utilizes economic and statistical principles, practices, and techniques to identify trends, analyze data, and develop forecasts; and formulates recommendations. However, an individual in the title of Research Scientist 2 conducts research projects or participates in functional programs in a specified professional field; assumes appropriate administrative and scientific duties as delegated; heads complex projects and makes recommendations to their supervisor. Consequently, it is clear that the title of Research Economist 2 is substantially different from, and would not have provided significant preparation and training for, the title of Research Scientist 2. Accordingly, Song has not established his entitlement to a salary adjustment pursuant to *N.J.A.C.* 4A:3-4.9(b).

Furthermore, there does not appear to be any basis to accept Song’s argument his salary step placement was unjust. The Commission observes that when Human Resources provided Song with a salary quote, it apprised him that his salary step placement was contingent upon the guidance it would receive from this agency after he commenced his service in his new position. It is clear that the initial salary quote was the product of administrative error, specifically a misinterpretation of *N.J.A.C.* 4A:3-4.9. The Commission emphasizes that no vested or other rights are accorded by an administrative error. See *Cipriano v. Department of Civil Service*, 151 *N.J. Super.*

86 (App. Div. 1977); *O'Malley v. Department of Energy*, 109 N.J. 309 (1987); *HIP of New Jersey v. New Jersey Department of Banking and Insurance*, 309 N.J. Super. 538 (App. Div. 1998). Consequently, Song's salary was properly calculated when he was appointed as a Research Scientist 2.

ORDER

Therefore, it is ordered that this appeal be denied.

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 17TH DAY OF JULY, 2020



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