

In the Matter of Marcin Koc and Michael Pitta, Equipment Operator (PC1598A), Ocean County

CSC Docket Nos. 2021-33 and 2021-62

## FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

**Examination Appeals** 

**ISSUED: SEPTEMBER 7, 2020** (RAM)

Marcin Koc and Michael Pitta appeal the determination of the Division of Agency Services (Agency Services) that they did not meet the experience requirements for the promotional examination for Equipment Operator (PC1598A), Ocean County. These appeals have been consolidated due to common issues presented.

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By way of background, the announcement for the subject examination was issued on November 1, 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 in any competitive title and who possessed one year of experience in the operation and maintenance of construction and maintenance equipment as of the November 21, 2019 closing date. It is noted that only three candidates applied for the subject examination and both appellants were found ineligible. As a result, an incomplete list promulgated on June 25, 2020, and expires on June 24, 2023. The eligible list was certified on June 29, 2020, and the only eligible candidate was appointed effective July 16, 2020.

Agency Services reviewed the appellants applications and credited them with four months of experience that they gained provisionally in the subject title prior to the closing date.<sup>1</sup> The review also determined that the primary focus of their prior

<sup>&</sup>lt;sup>1</sup> Agency records indicate that the appellants have been serving provisionally pending promotional examination procedures in the subject title since August 22, 2019. Agency Services credited the appellants for the whole month of August 2019.

duties was grounds keeping, with no indications in the operation and maintenance of construction and maintenance equipment. Thus, other experiences listed on their applications were deemed not applicable. It was noted that any operation and maintenance of equipment was out-of-title work for a Maintenance Worker Grounds 1 and 2, positions in which the appellants previously served.

On appeal to the Civil Service Commission (Commission), Mr. Koc challenges Agency Services' evaluation of his three years of work experience from September 8, 2016 to August 20, 2019, as a Maintenance Worker 2, Grounds with Ocean County. He maintains that this experience is applicable work. Thus, he requests admittance to the subject examination.

In his appeal to the Commission, Mr. Pitta also challenges Agency Services' evaluation of his work experiences since 2015 with Ocean County. Specifically, he maintains that his experience as a Maintenance Worker 2, Grounds from July 6, 2017 to August 21, 2019 is applicable. Thus, he requests admittance to the subject examination.

## 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. However, *N.J.A.C.* 4A:1-1.2(c) states that the Commission may relax a rule for good cause in particular situations, on notice to affected parties, in order to effectuate the purposes of Title 11A, New Jersey Statutes.

Initially, Agency Services determined that the appellants were ineligible for the subject examination as they did not meet the experience requirement as of the November 21, 2019 closing date since it found that they both lacked eight months of full-time experience. However, a review of agency records indicates that the appellants were appointed provisionally to the Equipment Operator title, effective August 22, 2019, and they continue to serve provisionally in that title. Commission finds that, for examination eligibility purposes, the appellants have been performing the duties of the title since that date. Therefore, the appellants now possess enough applicable experience based on their service. Under these circumstances, the Commission finds that good cause exists to relax the provisions Thus, absent accepting the appellants' provisional of N.J.A.C. 4A:4-2.6(a). experiences after the closing date, no other eligible candidate can be appointed as the subject eligibility list is now exhausted. In this regard, the purpose of the Civil Service system is best served when more rather than fewer individuals are appointments and/or advancement See Communications Workers of America v. New Jersey Department of Personnel, 154 N.J. 121 (1998).

Finally, this determination is limited to the instant matter and does not provide precedent in any other matter.

## **ORDER**

Therefore, it is ordered that these appeals be granted, and the appellants' applications be processed, for prospective employment opportunities only.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE CIVIL SERVICE COMMISSION ON THE  $2^{ND}$  DAY OF SEPTEMBER 2020

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