



STATE OF NEW JERSEY

In the Matter of Philip Palma,
Supervisor Public Works (PM1682A),
City of Linden

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

CSC Docket No. 2021-18

Examination Appeal

ISSUED: MARCH 26, 2021 (RAM)

Philip Palma appeals the determination of the Division of Agency Services (Agency Services) that he did not meet the experience requirements for the promotional examination for Supervisor Public Works (PM1682A), City of Linden.

By way of background, the announcement for the subject examination was issued on November 1, 2019 and 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 currently serving in the title of Assistant Supervisor Public Works *or* 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 with four years of experience in construction, maintenance, and/or repair of streets, sewer, water, sanitation or other public works facilities or similar heavy construction work. It is noted that, of the five applicants who applied for the subject examination, only two applicants were found eligible. An incomplete list with two eligibles promulgated on June 25, 2020 with an expiration date of June 24, 2023. Furthermore, the list was certified on June 29, 2020. One eligible was appointed to the subject title on that date, and the other eligible was retained on the list.

Agency Services' review of the appellant's¹ application indicated that he had seven months of experience that he gained provisionally in the subject title as of the closing date. It was also determined that the primary focus of the duties in his prior

¹ Agency records indicate that the appellant has been serving provisionally pending promotional procedures in the subject title since May 1, 2019.

positions was in sanitation work, with no experience in construction, maintenance and repair of public works facilities. Therefore, Agency Services concluded that he lacked three years and five months of experience as of the November 21, 2019 closing date.

On appeal to the Civil Service Commission (Commission), the appellant states that he is eligible for the subject examination because he has been employed in the public works department with the City of Linden in various positions for 34 years and has been serving provisionally in the subject title for the past two years. In support of his appeal, the appellant submits a letter of support, dated August 19, 2020, from the appointing authority regarding out-of-title duties the appellant performed from March 2008 to August 2013 as a Sanitation Truck Driver.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)2 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. Moreover, *N.J.A.C.* 4A:4-2.1(g) provides that the Commission can accept clarifying information in eligibility appeals. For example, information submitted on appeal pertaining to duties in a given position that expands or enlarges information previously submitted is considered clarifying and is accepted.

Initially, it is noted that Agency Services' initial determination that the appellant did not meet the required four years of experience listed on the announcement was correct. However, upon a re-review of his eligibility, Agency Services determined that the August 19, 2020 letter of support from the appointing authority clarified the out-of-titles duties performed by the appellant between March of 2008 and August of 2013, which provides him with a sufficient amount of experience as of the closing date.² Moreover, the appellant was provisionally appointed to the subject title, effective May 1, 2019, and continues to serve provisionally in that title. Additionally, the record evidences that the eligible list is incomplete. Under these circumstances, good cause exists to accept the appellant's prior out-of-title work experience and admit him to the examination. In that regard, the purpose of the Civil Service system is best served when more rather than fewer individuals are presented with appointments and/or advancement opportunities. *See*

² It is noted that Agency Services requested that the appointing authority confirm the business necessity for the assignment of the out-of-title duties. Nonetheless, it is clear that there was business necessity as the appellant performed the out-of-title duties which was verified by the appointing authority.

Communications Worker of America v. New Jersey Department of Personnel, 154 N.J. 121 (1998).

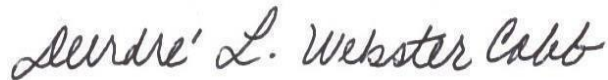
The Commission notes that the appellant's remedy is based on the circumstances of this matter. As this remedy is limited to the unique circumstances of this matter, it does not provide a precedent in any other matter.

ORDER

Therefore, it is ordered that the appeal be granted, and Philip Palma'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 24TH DAY OF MARCH, 2021



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