



STATE OF NEW JERSEY

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

In the Matter of Robert Creamer,
Assistant Supervisor of Building
Repairs (PS5829K), Woodbine
Developmental Center, Department
of Human Services

Examination Appeal

CSC Docket No. 2021-334

ISSUED: MARCH 26, 2021 (HS)

Robert Creamer appeals the determination of the Division of Agency Services (Agency Services), which found that he did not meet the experience requirement for the promotional examination for Assistant Supervisor of Building Repairs (PS5829K), Woodbine Developmental Center, Department of Human Services.

The subject examination was announced with a closing date of December 23, 2019 and was open, in relevant part, to employees who possessed two years of supervisory experience in the maintenance and repair of buildings and grounds, which shall have included the preparation of cost estimates and workable shop drawings. The examination resulted in an eligible list of one name that promulgated on September 17, 2020 and expires on September 16, 2023. The list has been exhausted.

On his application, the appellant listed his experience, in relevant part, as a Specialist (Heavy Equipment Operator) with the United States Army (Army) from December 2011 to April 2017. This position was not credited as it primarily focused on equipment operation, did not include grounds experience or the preparation of workable shop drawings, and was nonsupervisory. All remaining listed positions were also determined to be inapplicable. Therefore, Agency Services deemed the appellant ineligible since he lacked two years of experience and thus did not meet the experience requirement set forth in the announcement.

On appeal to the Civil Service Commission (Commission), the appellant maintains that his Specialist (Heavy Equipment Operator) position should be

credited. Specifically, he states that he was responsible for completing the Enlisted Record Brief (ERB) for lower-ranked enlisted soldiers. The appellant states that the ERB “evaluates their year in a record much like the NJ State EPAR system. They receive points based off of this report for promotion eligibility and performance review.”¹ The appellant states that he was a Heavy Equipment Operator and notes his leadership in projects such as drone landing strips and foundations of buildings; preventive maintenance of equipment; and experience determining if proper surveys and project drawings were being followed. The appellant states that he also constantly ensured “we had materials and blue prints on every job site we worked on as engineers.” He further states that the position did include grounds work as he dug ditches, cut grass, dug up broken water mains and sewer pipes, and built “more roads than most DOT employees.” The appellant adds that his Associate’s degree in Business Management is directly related to the subject title and argues that the degree should be credited notwithstanding that the examination announcement did not include a substitution clause for the required experience.

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. Per *N.J.A.C.* 4A:4-6.3(b), the appellant has the burden of proof in this matter.

At the outset, it is noted that the subject examination announcement called for supervisory experience. Supervisory experience includes responsibility for seeing that tasks assigned to subordinates are efficiently accomplished. It involves independent assignment and distribution of work to employees, with oral or written task instructions, and maintenance of the flow and quality of work within a unit in order to ensure timely and effective fulfillment of objectives. Supervisors are responsible for making available or obtaining materials, supplies, equipment, and/or plans necessary for particular tasks. They provide on-the-job training to subordinates when needed, and make employee evaluations based on their own judgment. They have the authority to recommend hiring, firing, and disciplining employees. See *In the Matter of Julie Petix* (MSB, decided January 12, 2005). See also, *In the Matter of Susan Simon and William Gardiner* (Commissioner of Personnel, decided September 10, 1997).

¹ Department of the Army Pamphlet 600-8-104 states the definition and purpose of the ERB as follows:

The individual record brief, also known as the enlisted record brief, DA Form 4037 (Officer Record Brief), the Reserve Component’s DA Form 2–1 (Personnel Qualification Record), the Soldier Record Brief, or any version of a Soldier’s individual record brief (hereafter known as the record brief), is a one page summary of the Soldier’s qualifications and career history. The record brief is a living document that is frequently updated. Each record brief is a snapshot of the Soldier’s career as it was at the time the record brief was produced.

The **essential component** of supervision is the responsibility for formal performance evaluation of subordinate staff. *See In the Matter of Timothy Teel* (MSB, decided November 8, 2001). As such, in order to be accepted, experience must be accrued in a position that supervises subordinate staff, including having the responsibility for performing formal performance evaluations. Merely making recommendations regarding a subordinate's performance, or even assisting in the preparation of a performance evaluation is not sufficient. Rather, to be considered a supervisor, the individual must be the person actually administering and signing off on the evaluation as the subordinate's supervisor. *See In the Matter of Enrique Cortes, et al.* (CSC, decided May 1, 2020). Performance evaluation authority is a reasonable standard because it is the means by which it can be demonstrated that a supervisor can exercise his or her authority to recommend hiring, firing, and disciplining of subordinate employees. Simply stated, the actual authority and exercise of performance evaluation of subordinate staff is what makes a supervisor a supervisor. Performance evaluation of subordinates, and its myriad of potential consequences to the organization, is the key function of a supervisor which distinguishes him or her from a lead worker. *See In the Matter of Alexander Borovskis, et al.* (MSB, decided July 27, 2005).

Upon review, the Commission finds that it cannot credit the appellant's Specialist (Heavy Equipment Operator) position. The appellant has not persuasively argued that the position was supervisory. Although he claims that he completed ERBs for lower-ranked enlisted soldiers and that the soldiers received points based on the ERBs for promotion eligibility and performance review, the appellant does not demonstrate that *he* determined the points to be awarded. The Commission has also not been convinced that the ERB is akin to a performance evaluation under the State's Performance Assessment Review (PAR) program. *See N.J.A.C. 4A:6-5.1, et seq.* In this regard, the appellant has not presented any documentary evidence to support his claim that the ERB should be deemed akin to a PAR. Moreover, at least one Army publication describes it as a "one page summary of the Soldier's qualifications and career history" and "a snapshot of the Soldier's career as it was at the time the record brief was produced." *See supra* note 1. This hardly describes a performance evaluation. In short, the Commission lacks a clear basis on this record to find that the appellant had the responsibility for administering formal performance evaluations such that he had the authority to recommend the hiring, firing, and disciplining of subordinates. Additionally, the position primarily focused on equipment operation, and the appellant has not demonstrated that the duties of the position included *his preparation* of workable shop drawings. Thus, the appellant's Specialist (Heavy Equipment Operator) remains inapplicable.

The Commission also cannot award any credit to the appellant's Associate's degree. The examination announcement did not permit education to be substituted for the required experience. By regulation, applicants must meet all requirements

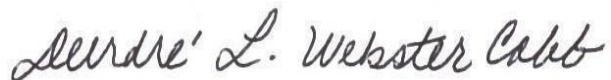
specified in the promotional examination announcement by the closing date. *See N.J.A.C. 4A:4-2.6(a)*. Thus, the appellant's degree is inapplicable.

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 24TH DAY OF MARCH, 2021



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c. Robert Creamer
Angela Santandrea
Division of Agency Services
Records Center