



**STATE OF NEW JERSEY**

In the Matter of Kevin M. Boyle and  
John R. Stone, Supervisor Public  
Works (PM2204B), Pennsauken  
Township

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

CSC Docket Nos. 2021-1924 and  
2022-203

Examination Appeal  
and  
List Removal Appeal

**ISSUED: SEPTEMBER 24, 2021  
(RAM)**

---

Kevin M. Boyle appeals his score and rank on the Supervisor Public Works (PM2204B), Pennsauken Township, eligible list. In addition, John R. Stone requests that Kevin Boyle’s name be removed from the eligible list.

By way of background, the Division of Agency Services (Agency Services) determined that Mr. Boyle was ineligible for the Supervisor Public Works (PM2204B), Pennsauken Township, examination because he did possess one year of continuous permanent service as an Assistant Supervisor Public Works **or** one year of continuous permanent service in any competitive title and 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 as of the February 21, 2020 closing date. However, as set forth in *In the Matter of Kevin M. Boyle* (CSC, decided May 19, 2021), the Civil Service Commission (Commission) granted Mr. Boyle’s appeal and directed that he be added to the May 3, 2021 (PL210391) certification of the resulting eligible list, which promulgated on February 4, 2021 and expires on February 3, 2024. Thereafter, Agency Services added Mr. Boyle to the subject eligible list with a flat passing score of 70.000. It is noted that Mr. Boyle ranks fourth on the subject certification. The appointing authority was granted an extension to dispose of the certification from August 3, 2021 to October 4, 2021.

On appeal, Mr. Boyle states that the other three individuals on the eligible list all received the same score. He further explains that each one of the individuals has been employed for different lengths of time, one for 34 years, a second for 21 years, and the third for 17 years with Pennsauken Township but yet received the same score. Lastly, he states that he has been employed there for 11 years and has performed the same work as the other three individuals on a day to day basis.

Therefore, Mr. Boyle contends that he should also have been given the same score. It is noted that the subject examination was rated as a qualifying unassembled examination. The three candidates who were found eligible based on their experience prior to the closing date received a score of 76.543. All four candidates received a seniority score of 70.000.

On appeal, Mr. Stone states that it is his belief that Mr. Boyle only won his initial appeal based on the fact that he was allowed to use experience he gained provisionally in the subject title because Pennsauken Township waited over one year before “posting of this position.” Further, he contends that, since Mr. Boyle did not have experience prior to his provisional appointment, he lacked the experience to be qualified for the examination. Lastly, Mr. Stone indicates that he and the other candidates were not given equal treatment or opportunity to gain the same experience as Mr. Boyle. Therefore, he requests that Mr. Boyle’s name be removed from the subject eligible list.

### CONCLUSION

*N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)1, allows the Commission to remove an eligible’s name from an employment list when he or she lacks the job requirements. *N.J.A.C.* 4A:4-6.3(b) provides that the appellant has the burden of proof in examination appeals.

Initially, Mr. Stone has not demonstrated a sufficient basis for removal of Mr. Boyle’s name from the eligible list. As set forth in the Commission’s prior decision, Mr. Boyle’s experience as an Equipment Operator and provisional Supervisor Public Works was properly credited to him and not his experience in his prior positions. Although Mr. Stone questions Mr. Boyle’s experience prior to his provisional experience, agency records do not indicate that Mr. Boyle made false statements or attempted any form of deception or fraud during the selection or appointment process with regard to his Equipment Operator position. Therefore, there is no cause to remove Mr. Boyle on that basis. *See N.J.A.C.* 4A:4-6.1(a)6. Moreover, Mr. Stone does not dispute Mr. Boyle’s provisional experience as applicable. It is emphasized that it is within the discretion of an appointing authority to appoint a provisional employee. Mr. Stone has not presented substantive evidence demonstrating that the appointing authority abused that discretion.

Regarding Mr. Boyle, pursuant to *N.J.A.C.* 4A:1-1.2(c), the Commission relaxed *N.J.A.C.* 4A:4-2.6(a), which provides that applicants shall meet all requirements specified in the promotional examination announcement by the closing date and granted his previous appeal. However, there was not a basis to provide him with the qualifying unassembled examination score of 76.543. In accordance with longstanding departmental policy, appellants admitted based on experience gained after the closing date are assigned a flat base score of 70.000. The policy was

developed to provide an equitable remedy in qualifying unassembled examinations to distinguish candidates who are admitted based on experience after the closing date with those who met the announced requirements as of the closing date. It is emphasized that experience or clarification accepted after the closing date is a rule relaxation or equitable remedy. In this case, there was a basis to accept experience after the closing date, but since there was no agency error, a score distinction is made since Mr. Boyle, as the subject of the rule relaxation, should not be given as an unfair advantage in relation to those who met the requirements as announced. It is emphasized that the fundamental principle to be applied by this agency in the exercise of its discretion in the developing, administering and grading of examinations is that the established requirements be reasonable and are applied uniformly and objectively to all candidates. *See e.g., In the Matter of Glen S. Haith, Esq.* (MSB, decided November 21, 1995). In this matter, there is not a basis to deviate from the aforementioned policy, which is reasonable and equitable under the circumstances.

Furthermore, Agency Services' determination and the Commission's prior decision were not in error in that Mr. Boyle was initially properly deemed ineligible for the subject examination because he did not meet the experience requirements as of the February 21, 2020 closing date. Mr. Boyle did not demonstrate on his examination application that he possessed applicable experience prior to his provisional position and as an Equipment Operator. In that regard, in order for experience to be considered applicable, it must have as its primary focus full-time responsibilities in the areas required in the announcement. *See In the Matter of Bashkim Vlashi* (MSB, decided June 9, 2004). The amount of time, and the importance of the duty, determines if it is the primary focus. An experience requirement that lists a number of duties which define the primary experience, requires that the applicants demonstrate that they primarily performed all of those duties for the required length of time. Performance of only one or some of the duties listed is not indicative of comprehensive experience. *See In the Matter of Jeffrey Davis* (MSB, decided March 14, 2007). Therefore, Mr. Boyle was properly rated with a score of 70.000. It is noted that, while Mr. Boyle raises an argument as to the eligibles' length of service, as set forth above, Mr. Boyle also received the same seniority score as did the other eligibles.

Accordingly, based on the foregoing, the appellants have not met their burden of proof. Mr. Boyle has not provided a basis to have his score and rank recalculated. Mr. Stone has not provided sufficient evidence to justify the removal of Mr. Boyle from the subject eligible list.

**ORDER**

Therefore, it is ordered that these appeals 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 22 DAY OF SEPTEMBER, 2021

*Deirdre' L. Webster Cobb*

---

Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

c: Kevin M. Boyle  
John R. Stone  
Timothy Killion  
Joseph V. Palumbo, Sr.  
Division of Agency Services  
Records Center