

B-53



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jeff Jacobs, Heavy
Equipment Operator, Township of
Woodbridge

CSC Docket No. 2016-1278

Administrative Appeal

ISSUED: **OCT 13 2015** (RE)

The Division of Agency Services (DAS), on behalf of Woodbridge Township, requests a retroactive regular appointment to the title of Heavy Equipment Operator, effective February 1, 2013, for Jeff Jacobs, who is serving provisionally in the title.

By way of background, Jeff Jacobs was provisionally appointed to Heavy Equipment Operator on August 22, 2011. He filed an application for the examination for Heavy Equipment Operator (PM0858N), Woodbridge, and was denied eligibility due to lack of the required experience. However, the Commission granted his appeal. See *In the Matter of Jeffrey L. Jacobs, Heavy Equipment Operator (PM0858N), Township of Woodbridge* (CSC, decided January 23, 2013), attached. In that decision, the Commission noted that the appointing authority wished to effect a permanent appointment for Mr. Jacobs. Mr. Jacob's name was added to the eligible list with a rank of seventh.

In its request, DAS explains that once Mr. Jacobs was added to the eligible list, a certification was never requested due to an administrative error. It recommends approval of granting a retroactive appointment for Mr. Jacobs in the title Heavy Equipment Operator. It is noted that the eligible list for PM0858N was promulgated on March 15, 2012, and expired on March 14, 2015. One certification (PL120358), issued March 20, 2012, resulted in five appointments.

N.J.A.C. 4A:4-3.3(b) provides, in pertinent part, that promotional lists shall be promulgated for three years from the date of their establishment. *N.J.A.C.* 4A:4-

3.4(a)5 states that the Commission may revive an expired eligible list for good cause. See also *N.J.S.A.* 11A:4-6. *N.J.A.C.* 4A:4-1.10(c) provides that the Commission may order a retroactive appointment date for good cause.

CONCLUSION

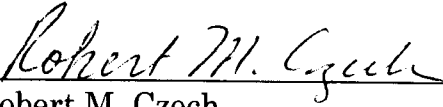
In the instant matter, there is no basic factual dispute but, rather, the central issue involves reviving an expired promotional employment list in order to effectuate the appointment of Jeff Jacobs by adding his name to the certification. Jeff Jacobs has had provisional status in the subject title since August 22, 2011, and once the Commission found him eligible for the examination, his name was added to the eligible list. In this case, since he is reachable under the "rule of three" on the certification for (PL120358) in accordance with *N.J.A.C.* 4A:4-4.8, and the appointing authority has made the request, good cause exists to revive the list and give Jeff Jacobs a regular appointment retroactive to February 1, 2013.

ORDER

Therefore, it is ordered that the request be granted and Jeff Jacobs be provided with a regular appointment as Heavy Equipment Operator, effective February 1, 2013. Mr. Jacobs' personnel record should be amended in accordance with this decision.

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 7th DAY OF OCTOBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

c: Jeff Jacobs
Robert Landolfi
Kenneth Connolly
Joseph Gambino

B20



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jeffrey L. Jacobs,
Heavy Equipment Operator
(PM0858N), Township of Woodbridge

CSC Docket No. 2012-2815

Examination Appeal

ISSUED: JAN 23 2013 (MMT)

Jeffrey L. Jacobs appeals the determination of the former Division of Selection Services (Selection Services)¹ that he did not meet the experience requirement for the promotional examination for Heavy Equipment Operator (PM0858N), Township of Woodbridge.

The subject promotional examination was announced with a closing date of November 21, 2011 and open to employees who possessed an aggregate of one year of continuous permanent service as of the closing date in any competitive title and two years of experience in the operation and maintenance of construction and maintenance equipment. It is noted that seven applicants were found eligible for the unassembled examination, which resulted in an eligible list promulgating on March 15, 2012 and expiring on March 14, 2015. A certification was issued on March 20, 2012, consisting of the seven eligibles. Five out of the seven eligibles were appointed on April 16, 2012 and one of the eligibles was deceased, thereby leaving an incomplete list of one eligible.

A review of the appellant's application indicated that he was serving provisionally in the title under examination from August 2011 through the closing date.² In addition, the appellant served in the title of Maintenance Repairer from October 1998 to August 2011, and his duties included operating forklifts and skid-steer loaders, using backhoes to lift and remove sidewalks, and operating loaded

¹ Now the Division of Selection Services and Recruitment.

² Personnel records indicate that the appellant continues to serve provisionally in the subject title.

trucks. Selection Services determined that the appellant's provisional experience was applicable. However, although Selection Services determined that the appellant's experience in the title of Maintenance Repairer was relevant, it could not be accepted for eligibility purposes, as it was a result of out-of-title work. As such, the appellant was considered to possess only four months of applicable experience as of the closing date of the announcement and deemed ineligible.

On appeal to the Civil Service Commission (Commission), the appellant maintains that he has sufficient experience to make him eligible to sit for the subject examination. He states that he has been serving provisionally in the title under examination since August 22, 2011 and has operated several pieces of heavy equipment since 1992. Moreover, he clarifies that, while serving in the title of Maintenance Repairer, he operated and maintained backhoes, skid-steer loaders, cable cranes, and Palfinger cranes. In 2009, he began operating excavators, bulldozers, wheel loaders, forklifts, tractor trailers, lift cranes and grapple cranes. He states that he has been the principal backhoe operator on all excavations. Further, the appellant asserts that the appointing authority recently purchased a walking excavator and he has been selected as the sole operator of the machine.

In support of his appeal, the appellant presents letters, dated March 19, 2012, from Carmine J. Barbato, a Sewer Superintendent/Street Superintendent for the Township of Woodbridge, and Dennis Henry, Municipal Department Head for the Department of Public Works, Township of Woodbridge, maintaining that the appellant's out-of-title work experience gained while serving in the title of Maintenance Repairer should be accepted for purposes of eligibility. Specifically, they verify that the appellant has been performing the duties of the title under examination for approximately two and one-half years. They assert that the appellant has been operating and maintaining wheel loaders, backhoes, excavators, dozers and versa lift cranes.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)2 provides that applicants shall meet all requirements specified in the promotional announcement by the closing date.

In the instant matter, candidates for the title under examination were required to possess two years of relevant experience. Selection Services determined that the appellant's provisional experience was applicable. Selection Services also noted that the appellant performed applicable duties while serving in the title of Maintenance Repairer, but those duties constituted out-of-title work. *N.J.A.C.* 4A:4-2.6(c) provides that, except when permitted for good cause, applicants for promotional examinations with open competitive requirements may not use experience gained as a result of out-of-title work to satisfy eligibility requirements. Generally, the Commission finds good cause where the record evidences that the

examination situation is not competitive, no third parties are adversely impacted, and the appointing authority wishes to effect permanent appointments and verifies that the appellant has performed the relevant duties which otherwise satisfy the eligibility requirements. *See In the Matter of John Cipriano*, (MSB, decided April 21, 2004).

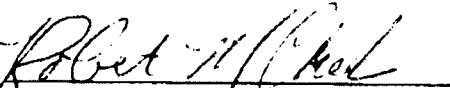
In the present case, there were seven eligible candidates for the title under examination. Of the seven, one is deceased and five appointments were made, leaving an incomplete list of one eligible. Additionally, the record reveals that no third parties will be adversely impacted. Finally, the appellant submits verification that he has performed the relevant duties for approximately two and one-half years. Moreover, he continues to serve provisionally in the title under test. Thus, good cause has been presented to credit the appellant with the out-of-title work performed while serving in the title of Maintenance Repairer and admit him to the subject examination.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant'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 23RD DAY OF JANUARY, 2013



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Jeffrey L. Jacobs
Robert Landolfi
Dan Hill
Joseph Gambino

