



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Lissette V. Villegas,
Personnel Assistant 3 (PS4043I),
State Parole Board

Examination Appeal

CSC Docket No. 2017-3348

ISSUED: OCT 19 2017 (BS)

Lissette V. Villegas appeals the determination of the Division of Agency Services which found that she was below the minimum requirements in experience for the promotional examination for Personnel Assistant 3 (PS4043I), State Parole Board.

The examination at issue was announced with specific requirements that had to be met as of the December 21, 2016 closing date. Specifically, all applicants had to possess a Bachelor's degree from an accredited college or university plus two years of technical experience in a personnel program of a public or private organization. Applicants who did not possess the required education could substitute experience as indicated on a year for year basis, with 30 semester credit hours being equal to one year of experience. Additionally, a Master's degree in business administration, personnel administration, public administration, management, or other related field could be substituted for one year of the required experience. Records indicate that the subject promotional examination was cancelled on April 5, 2017 due to a lack of qualified applicants.

The appellant indicated on her application that she had a Bachelor's degree and possessed nine months of experience as a provisional Personnel Assistant 3 (4/16 to closing date) and unrelated positions as a Judiciary Clerk 3, Owner of M&L Cleaning Service, and Clerk Typist. The Division of Agency Services concluded that, as of the closing date, the appellant satisfied the educational requirement and possessed nine months of applicable experience as a provisional Personnel Assistant 3. None of the remaining positions listed on her application involved any applicable

experience. Therefore, the appellant was found ineligible for the subject promotional examination.

On appeal, the appellant highlights her extensive duties involving the personnel program as the Owner of M&L Cleaning Services, LLC, which included creating and implementing personnel policies and procedures, processing payroll, scheduling work hours, and mediating personnel conflicts. In addition, the appellant asserts that she possesses a Bachelor's degree and continues to serve as a provisional Personnel Assistant 3. The appellant also claims to have performed appropriate duties for three years while serving as a Clerk Typist at the Office of the Child Advocate. In support of this claim, Audrey Nicastro, currently an Administrative Assistant 1 at the Department of Human Services, submits a letter on the appellant's behalf, stating that she was serving as an Executive Secretarial Assistant at the time and that the appellant served as her "back up." While Ms. Nicastro was on medical leave, the appellant assumed her responsibilities which included processing leave requests, disciplinary actions, and entering personnel data.

CONCLUSION

N.J.A.C. 4A:4-2.6(a) provides that applicants shall meet all requirements specified in the examination announcement by the closing date. *N.J.A.C.* 4A:4-2.6(c) provides that except when permitted for good cause, applicants for promotional examinations generally may not use experience gained as a result of out-of-title work to satisfy eligibility requirements. *N.J.A.C.* 4A:1-1.2(c) provides that the Civil Service Commission may relax a rule for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated. *N.J.A.C.* 4A:4-6.3(b) provides that, except for medical or psychological disqualification appeals, the appellant shall have the burden of proof.

As of the closing date, the appellant satisfied the educational requirement but only possessed nine months of applicable experience as of the closing date as a provisional Personnel Assistant 3. On appeal, the appellant claims that she performed technical personnel duties while the Owner of a cleaning service, although technical personnel work at the level and scope of that required of a Personnel Assistant 3 would not be the primary focus of this experience. Additionally, the appellant claims to have performed applicable technical personnel work while serving as a Clerk Typist while temporarily filling in for an Executive Secretarial Assistant who was on an extended medical leave. Out-of-title work issues aside, neither a Clerk Typist nor an Executive Secretarial Assistant would be performing in-title technical personnel work as required. Out-of-title work in civil service employment generally cannot be used as qualifying experience for promotional examinations announced with open-competitive requirements. See *N.J.A.C.* 4A:4-2.6(c). In order for out-of-title work to be considered, it should be

verified and endorsed by the appointing authority. Ms. Nicastro's supporting letter does not satisfy this criteria.

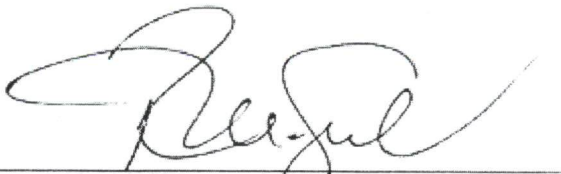
However, the Commission is mindful that the appellant continues to successfully serve as a provisional Personnel Assistant 3, and the subject promotional examination has been cancelled due to a lack of qualified applicants. Since this is not a competitive situation, relaxing the provisions of *N.J.A.C. 4A:4-2.6(a)* and accepting the appellant's additional experience as a provisional Personnel Assistant 3 experience gained after the December 21, 2016 closing date, for eligibility purposes only, will give her an additional ten months of applicable experience for a total of one year and seven months of the required experience. Additionally, while technical personnel work was not the primary focus, the appellant's experience as an Owner did touch on some aspects of personnel work. Again, as this not a competitive situation, the Commission does have some flexibility to accept the totality of the appellant's two years of private sector experience as an Owner in this case, which can now be used to satisfy the subject requirements in the instant matter only and allow the appellant to be tested and afforded the opportunity to be considered for permanent appointment to the subject title.

ORDER

Therefore, it is ordered that this appeal be granted, the examination cancellation be rescinded, and the appellant's application be processed as soon as possible.

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 18TH DAY OF OCTOBER, 2017



Robert M. Czech, 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. Lissette V. Villegas
Penny Thorpe
Kelly Glenn