



STATE OF NEW JERSEY

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

In the Matter of Nelson Malave,
Construction and Maintenance
Technician 5 (S0017B), Statewide

CSC Docket No. 2021-105

Examination Appeal

ISSUED: OCTOBER 23, 2020 (RE)

Nelson Malave appeals the determination of the Division of Agency Services (Agency Services) which found that he did not meet the experience requirements for the open-competitive examination for Construction and Maintenance Technician 5 (S0017B), Statewide.

The subject examination announcement was issued with a closing date of January 6, 2020 and was open to residents of New Jersey and the United States, who possessed one year of experience in the inspection or testing of materials, reviewing permit applications, inspecting construction work, and/or construction/maintenance work requiring mathematical calculations to estimate materials or labor needed or used. Applicants who did not possess the required experience may substitute college semester hour credits in engineering or engineering technology program on the basis of thirty semester hour credits being equal to one year of experience. The appellant was found to be below the minimum requirements in experience. It is noted that 76 candidates were admitted to the examination, which has not yet been held.

The appellant did not indicate possession of any college semester hour credits in engineering or an engineering technology program. He listed one position on his application, Highway Operations Technician 1, and he indicated duties as “highway maintenance operations.” On his resume, he elaborated on these duties, stating that he controls ice and snow, performs drainage and other repairs, and operates trucks and machinery. He also listed positions as Sergeant, General Manager of Giant Fitness, Shift Manager at a grill, and Night Shift Supervisor with American Harvest Baking. As a Sergeant, the listed his duties as “NCOIC of Blue Force Tracker, used

to locate information on hostile and friendly forces; monitored roads and to avoid IED's and ambushes with the use of mounted Gyrocam systems; maintained constant communication between vehicles with the use of Harris radios; promoted to sergeant within four years; active member as well as active team leader; train and evaluate new soldiers on how to effectively and efficiently operate machinery and equipment; certified in combat lifesaving skills, and accident avoidance." As none of these positions had duties that matched the announced experience requirement, he was found to be lacking one year of required experience.

On appeal, the appellant states that he accrued applicable experience in various positions in State service, and he should be eligible as the Department of Transportation has him in the "hiring process," and he was told to take the open-competitive examination. He also states that he has been in the construction field his entire life with civilian and military experience, and was a Construction Engineer for nine years in the Army. He provides an NCO Evaluation Report issued by the U.S. Army that includes information on his Sergeant position. The duties listed for November 17, 2015 to November 17, 2016 include, "Advises the squad leader on all section equipment and heavy construction equipment; responsible for tracking of service and deadline; ensures maintenance reports are reported and troubleshot; interacts with the unit's maintenance shop to maintain section equipment to support combat readiness." In a second evaluation dated November 18, 2016 to November 17, 2017, the duties include, "Reads and interprets construction drawing. Estimates materials, time, equipment, and labor requirements. Supervises the construction and repair of electrical and utility systems on assigned engineer missions. Inspects structure's and facility's compliance with specifications. Directs operator's maintenance on assigned vehicles and equipment." In a third evaluation dated November 18, 2017 to November 17, 2018, the duties include, "Interprets information on grade stakes; clears, grubs, strips, excavates, backfills, ditches, stockpiles and pushes scraper with tractor crawler: cuts and spread fills material with scraper; excavates, stockpiles, backfills, and loads with loader." In a fourth evaluation dated November 18, 2018 to November 17, 2019, the duties include, "Serves as a team leader in a Horizontal construction platoon. ... Interprets construction drawings and blueprints; prepares site layout; directs operational maintenance on assigned equipment; reserve components perform millright. Responsible for maintenance and accountability of assigned Sets, Kits, and Outfits (SKO) valued at \$100,000."

CONCLUSION

N.J.A.C. 4A:4-2.3(b) provides that applicants shall meet all requirements specified in the open competitive examination announcement by the closing date.

For experience to be acceptable, 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 appellant was deemed to be

ineligible for the subject examination since the positions he listed on his application did not have the announced experience requirement as the primary focus. A review of the duties on his application indicates that this determination was correct. On appeal, the appellant submits documentation from the U.S. Army which indicates that his positions as US Army Squad Leader from November 18, 2016 to November 17, 2017, and US Army Horizontal Construction Supervisor from November 18, 2018 to November 17, 2019 are applicable. However, the appellant listed employment as a Highway Operations Technician 1 from November 2016 to December 2019, full-time. The appellant did not provide the hours worked per week as a US Army Squad Leader or US Army Horizontal Construction Supervisor, and as such, that experience cannot be quantified. The appellant did not list these positions on his application with hours worked per week, but submitted a resume without part-time hours listed. Therefore, the appellant lacks one year of qualifying experience.

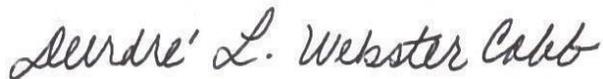
The appellant was denied admittance to the subject examination since he lacked the minimum requirements in experience. An independent review of all material presented indicates that the decision of Agency Services, that the appellant did not meet the announced requirements for eligibility by the closing date, is amply supported by the record. The appellant provides no basis to disturb this decision. Thus, the appellant has failed to support his burden of proof in this matter.

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 21ST DAY OF OCTOBER 2020



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Christopher S. 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: Nelson Malave
Michele Shapiro
Agency Services
Records Center