
DONEL B. BEZRUKI,

Appellant,

v.

DEPUTY DIRECTOR, BUREAU OF PERSONNEL and
SECRETARY, DEPARTMENT OF REGULATION AND
LICENSING,

Respondent.

Case No. 77-211

OFFICIAL

OPINION AND ORDER

Before: James R. Morgan, Calvin Hessert and Dana Warren, Board Members.

NATURE OF THE CASE

This is an appeal pursuant to s. 16.05(1)(f), Wis. Stats., of a decision to deny the appellant admission to an examination.

FINDINGS OF FACT

1. The examination in question was for Consumer Protection Investigator 1 - Regulation and Licensing, for a vacancy in the Department of Regulation and Licensing under the classified civil service.

2. The examination was announced October 3, 1977, with the following training and experience requirements:

"Four years of work experience including two years in a responsible level position in one of the following: (1) law enforcement, investigational, inspectional or regulatory work; or (2) work involving consumer education or the advocacy of consumer rights and interest. College graduation with significant course work in business administration, law, consumer economics, agricultural education or related areas may be substituted for experience. An equivalent combination of training and experience may also be considered." Respondents' Exhibit 1.

3. The aforesaid training and experience requirements are the same as set forth in the class specifications, Respondents' Exhibit 3.

4. The appellant submitted an application, Respondents' Exhibit 4, which was rejected on the grounds that the appellant's training and experience did not meet the minimum requirements. See Respondents' Exhibit 5, letter of rejection to appellant dated October 31, 1977.

5. On November 4, 1977, the appellant met with a representative of the Bureau of Personnel.

6. At this meeting the appellant presented a letter dated November 3, 1977, Respondents' Exhibit 6, which provided details additional to his application of his training and experience.

7. At this meeting the bureau's representative explained the bureau's interpretation of the training and experience requirements as set forth below, paragraph 10.

8. The appellant did not at this meeting describe that facet of his experience, serving for 20 months as a non-commissioned officer in the United States Marine Corps, which involved the inspection of communications equipment maintained by reserve units and the implementation of procedures to bring about compliance, in the maintenance of that equipment, with applicable government regulations and specifications.

9. After this meeting the bureau reaffirmed appellant's denial of admission to the examination.

10. In its interpretation of the training and experience requirements for this position, the bureau interpreted the phrase "law enforcement, investigational, inspectional, or regulatory work" as requiring more than just experience in "inspecting" in the dictionary meaning of the word, but as requiring both inspection and investigation of a person or organization which would be characterized as having an adversarial relationship with the inspector.

11. This interpretation was based on the bureau's understanding of the requirements of the position, which understanding was based at least in part on a position analysis which involved a supervisor of and an incumbent in this type of position.

12. The appellant failed to present sufficient evidence to the bureau that he possessed the two years of work experience as set forth in Respondents' Exhibit 1, or an equivalent combination of training and experience.

13. The appellant failed to present sufficient evidence to the bureau that he was a college graduate with the required course work as set forth in Respondents' Exhibit 1, or an equivalent combination of training and experience.

CONCLUSIONS OF LAW

1. The personnel board has jurisdiction over this appeal pursuant to s. 16.05(1)(f), Stats.

2. The bureau's interpretation of the phrase in the announcement "law enforcement, investigational, inspectional, or regulatory work" was reasonable and appropriate considering the position analysis and the requirements of the position.

3. The bureau's decision to deny appellant admission to the examination must be reviewed on the basis of the information provided by the applicant, and not on new information provided for the first time at the hearing, provided that the bureau provides, as was done here, an adequate opportunity for the applicant to explain his qualifications. See Peterson v. Carballo, Wis. Pers. Bd. 76-131 (3/21/77).

4. Based on the information reasonably available to the bureau, the appellant's training and experience qualifications did not meet the requirements set forth in the examination announcement.

OPINION

It is questionable in the board's opinion whether or not appellant's experience in the Marine Corps would meet the requirements of two years specific experience set forth in the exam announcement. The basic NCO function was undoubtedly properly characterized by the bureau as supervisory in nature. While any supervisory position involves to some extent inspection of subordinates' work for compliance with regulations and standards, and a certain amount of investigative activity, these collateral aspects of supervisory work would not qualify in the more specific sense of the terms used by the bureau. However, appellant was engaged in inspecting equipment maintained by other reserve units. While this work was closer to the definition used by the bureau, it apparently lacked investigative and adversarial aspects. In any event, no findings on this point are needed because this experience was not made known to the bureau when it reviewed appellant's application and conducted the subsequent interview. See Peterson v. Carballo, Wis. Pers. Bd. 76-131 (3/21/77).

It is axiomatic that the bureau must interpret the language of the training and experience requirements and cannot simply apply them in a rote fashion as if it were sorting apples and oranges into separate piles. With respect to this announcement, it would not be reasonable to apply literally the terminology of the training and experience requirements. For example, "inspectional work" should not be interpreted to encompass an assembly line inspection to determine if a nut and bolt are securely fastened--these words must be interpreted in the context of the position's requirements and their usage in the personnel field. While the board is of the opinion that the interpretation used here was within the scope of the class specifications and the requirements set forth in the announcement, and appropriate to the requirements of the position, it suggests

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that it would have been preferable to have included a more explicit statement in the announcement.

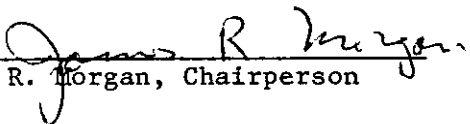
The appellant introduced a number of applications of persons admitted to the exam but the board was unable to find any discriminatory or inconsistent application of the training and experience requirements.

ORDER

The action of the respondents is affirmed and this appeal is dismissed.

Dated: 2-20, 1978

STATE PERSONNEL BOARD


James R. Morgan, Chairperson