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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-1159

Filed: 17 July 2018

Office of Administrative Hearings, No. 16 OSP 08333

VENUS JOYNER JOHNSON, Petitioner,

v.

EAST CAROLINA UNIVERSITY, Respondent.

Appeal by petitioner from order entered 28 June 2017 by Administrative Law Judge Augustus B. Elkins II in the Office of Administrative Hearings. Heard in the Court of Appeals 6 June 2018.

Schiller & Schiller, PLLC, by David G. Schiller, for petitioner-appellant.

Attorney General Joshua H. Stein, by Assistant Attorney General Vanessa N. Totten, for respondent-appellee East Carolina University.

DAVIS, Judge.

Venus Joyner Johnson appeals from a final decision of the Office of Administrative Hearings (“OAH”) concerning her failure to receive a promotion at East Carolina University (the “University”). After a thorough review of the record and applicable law, we affirm.

Factual and Procedural Background

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The University maintains a department called Information Technology and Computer Services (“ITCS”), which is “responsible for providing computer and technology services to the University.” Within ITCS, a division exists entitled Enterprise Information Systems (“EIS”).

In 2002, the University began using Banner — a software program that allows the University to keep track of financial aid, accounts payable, and student data. The Banner Team is a software development team within EIS that is primarily responsible for building interfaces and customizing the automated processes associated with the Banner software. The Banner Team consists of four teams: (1) Finance; (2) Student; (3) Human Resources; and (4) Payroll. All of the Banner teams use a coding language called PL/SQL to write programs in the Banner software system.

Petitioner Venus Joyner Johnson is a 55-year-old African-American woman who began working for ITCS in 1985. Johnson has a bachelor’s degree in computer science and has taken additional computer courses during her employment with the University. In 2014, Johnson was working as an Analyst on the Banner Team.

Around June of 2014, Katherine McLeod was promoted from the position of Business & Technology Applications Specialist (“Specialist”) on the Finance Team to a higher position within ITCS. As a result, the Specialist position on the Finance Team was left vacant, and the open position was posted by the University. The search

committee for the Specialist position consisted of Zachary Loch (the director of EIS), McLeod, and Patty Peebles (a Journey-level Specialist on the Finance Team).

In June 2014, Johnson applied for the vacant Specialist position. In her application, Johnson noted that she was the project leader for the Campus Loan Manager, which interfaces with Banner. She also stated that she was a “Banner AP backup,” meaning that she “served as McLeod’s backup when McLeod held the Specialist position.”¹

The search committee reviewed Johnson’s application along with those of the other applicants for the position. After conducting interviews of Johnson and other applicants, the committee ultimately determined that neither Johnson nor any of the other applicants were qualified for the Specialist position. Therefore, none of the candidates who applied for the position in June 2014 were selected.

In 2015, the Specialist position was re-advertised by the University three times. During this time, the search committee consisted of McLeod, Peebles, Doug Stanley (the newly-hired Banner Team Manager), and Kim Goltra (another Journey-level Specialist on the Finance Team). McLeod, Peebles, and Goltra were selected for the search committee because they would work closely with the individual hired for the Specialist position and possessed an understanding of the skills required for the

¹ Loch testified that “the department was too thin to have true backups where one employee could cover another employee’s complete job duties.” McLeod testified that Johnson “served as [McLeod’s] backup only for check processing within Accounts Payable, in case McLeod was out and a check needed to be processed that day.”

position. Stanley, who had taken over as the hiring manager for the position, made some modifications to the job description.

Johnson submitted an application for the Specialist position on the two occasions when it was posted prior to June 2015 and also when it was posted for a third time in July 2015. Upon reviewing the applications, the search committee did not interview Johnson or any other candidate who had applied for the position in the summer of 2014.

In September 2015, the Specialist position was posted for a fourth time. Johnson reapplied for the position. In October 2015, Steve Williamson, a probationary state employee who worked for the University in ITCS, submitted an application for the Specialist position. Williamson did not have extensive experience working with the Banner system but had “exhibited extensive programming experience and a thorough understanding of how to write PL/SQL code and interfaces.”

When the application deadline ended in late October 2015, the search committee reviewed the applications and selected four candidates to receive interviews. Among the applicants selected for interviews were Williamson and an applicant named Kelly Varnell. The committee did not interview Johnson.

The search committee determined that both Williamson and Varnell were qualified for the Specialist position. The committee ultimately selected Williamson

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because Stanley, McLeod, and Goltra believed he was the most qualified individual for the position. Peebles initially believed Varnell was the most qualified person but eventually agreed to the committee's decision to hire Williamson.

On 10 February 2016, Johnson filed a grievance with the University's Office of Equity and Diversity ("OED") alleging that the University had (1) discriminated against her on the basis of age, sex, race, and color; and (2) failed to provide priority consideration for her as a career state employee pursuant to N.C. Gen. Stat. § 126-7.1(e). After conducting an investigation, OED determined that the University had not discriminated against Johnson and that she was not entitled to priority consideration for the position.

Johnson continued to pursue the grievance process, and a grievance hearing was held on 25 July 2016. The hearing panel submitted a report to the University's Chancellor in which it concluded that Johnson had not successfully proven her claim of discrimination and that she did not possess substantially equal qualifications to Williamson such that priority consideration was applicable. The Chancellor issued a Final University Decision concerning Johnson's grievance on 4 August 2016.

On 26 August 2016, Johnson filed a petition for a contested case hearing with OAH. A hearing was held before Administrative Law Judge Augustus B. Elkins, II (the "ALJ") on 31 January 2017. The ALJ issued a Final Decision on 28 June 2017 concluding that Johnson had failed to meet her burden in showing that she was

subjected to discrimination or that she possessed substantially equal qualifications as Williamson such that she was entitled to priority consideration. Johnson filed a timely notice of appeal to this Court.

Analysis

On appeal, Johnson argues that the ALJ erred in failing to conclude that she was entitled to priority consideration pursuant to N.C. Gen. Stat. § 126-7.1(e) based on the fact that she was a career status state employee.² We disagree.

“The North Carolina Administrative Procedure Act (APA), codified at Chapter 150B of the General Statutes, governs trial and appellate court review of administrative agency decisions.” *Amanini v. N.C. Dep’t of Human Resources*, 114 N.C. App. 668, 673, 443 S.E.2d 114, 117 (1994) (citation omitted). Chapter 150B of the North Carolina General Statutes provides, in pertinent part, as follows:

The court reviewing a final decision may affirm the decision or remand the case for further proceedings. It may also reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority or jurisdiction of the agency or administrative law judge;

² Johnson makes no argument in her appellate brief regarding the ALJ’s dismissal of her discrimination claims. Therefore, we deem that issue to be waived. N.C. R. App. P. 28(b)(6) (“Issues not presented in a party’s brief, or in support of which no reason or argument is stated, will be taken as abandoned.”).

- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a), 150B-30, or 150B-31 in view of the entire record as submitted; or
- (6) Arbitrary, capricious, or an abuse of discretion.

N.C. Gen. Stat. § 150B-51(b) (2017).

When the issue for review is whether an agency’s decision was supported by substantial evidence in view of the entire record, a reviewing court must apply the “whole record” test. A court applying the whole record test may not substitute its judgment for the agency’s as between two conflicting views, even though it could reasonably have reached a different result had it reviewed the matter *de novo*. Rather, a court must examine all the record evidence—that which detracts from the agency’s findings and conclusions as well as that which tends to support them—to determine whether there is substantial evidence to justify the agency’s decision. “Substantial evidence” is defined as “relevant evidence a reasonable mind might accept as adequate to support a conclusion.”

Watkins v. N.C. State Bd. of Dental Exam’rs, 358 N.C. 190, 199, 593 S.E.2d 764, 769 (2004) (internal citations omitted).

The statute establishing priority consideration for state employees with regard to promotions is N.C. Gen. Stat. § 126-7.1(e), which provides, in pertinent part, as follows:

- (e) If a State employee subject to this section:
 - (1) Applies for another position of State

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employment that would constitute a promotion;
and

- (2) Has substantially equal qualifications as an applicant who is not a State employee;

then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.

. . . .

- (g) “Qualifications” within the meaning of subsection (e) of this section shall consist of:

- (1) Training or education;
- (2) Years of experience; and
- (3) Other skills, knowledge, and abilities that bear a reasonable functional relationship to the abilities and skills required in the job vacancy applied for.

N.C. Gen. Stat. § 126-7.1 (2017). Pursuant to 25 N.C.A.C. 1H.0801, “[s]ubstantially equal qualifications occur when the employer cannot make a reasonable and justifiable determination that the job-related qualifications held by one applicant are significantly better suited for the position than the job-related qualifications held by another applicant.” 25 N.C.A.C. 1H.0801 (quotation marks omitted).

In the present case, the ALJ made the following pertinent findings of fact:

- 1. [Johnson] is an African-American female who is approximately 55 years old. She began working for [the

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University] on November 18, 1985. Throughout that time, she worked (and is still working) in the Computer Information Systems Department, which is now called Information Technology and Computer Services (“ITCS”). [Johnson] has a Bachelor’s Degree in Computer Science with a minor in History, and has taken additional computer courses during her employment with [the University]. [Johnson] currently holds the Business and Information Analyst (“Analyst”) position in the Banner Team within ITCS. [Johnson] was first hired as a Computer Systems Coordinator, and has been promoted a number of times during her employment at [the University]. She has held the Business and Information Analyst position since 2001. Her salary grade is 78, and her salary is about \$80,000.00.

....

3. ITCS is responsible for providing computer and technology services to the University. Within ITCS, [Johnson] is an Analyst in the Enterprise Information Systems (“EIS”) division. Zachary Loch has been the Director of EIS since 2012. [Johnson] has served on the Banner Team within EIS since the University began using the Banner system around 2002.

4. The Banner system is the University’s Enterprise Resource Planning (“ERP”) system, or the software used by most of the University’s business areas. The Banner Team is a software development team primarily responsible for building interfaces and doing customizations to automate processes within Banner. The Banner teams use a coding language called PL/SQL to write programs in the Banner software system. Doug Stanley is the Manager of the Banner Team, and has worked in that role since May of 2015. He reports directly to Loch. There are four Banner sub-teams: Finance Team, Student Team, Human Resources (“HR”) and Payroll, and University Advancement.

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5. Banner has several modules, including a Finance module and a Student module. The Banner Finance Team supports the Banner Finance module, which is used to track financial aid, accounts payable, etc., and the Banner Student Team supports the Banner Student module, which works with student data (e.g., Admissions, Housing).

6. In a May 2014 performance review, [Johnson]’s supervisor observed that [Johnson] is “a solid PL/SQL developer” and that she has “helped develop and maintain interfaces between Banner and CLM in the past and is a good technical resource for scripting.” The evaluation also states that [Johnson] “is a very knowledgeable analyst. She has a lot of knowledge in . . . Banner, CLM, Admin, FTP, ePrint, PL/SQL, and many other areas.”

7. In June 2014, [Johnson] applied for a Business & Technology Applications Specialist (“Specialist”) position on the Banner Finance Team, which would have been a promotion from her role as an Analyst with an increase in salary, grade, and responsibility. Katherine McLeod previously held this position but had been promoted, resulting in the vacant Specialist position.

8. At that time, the Banner Team Manager position was also vacant, so Loch served as the hiring manager for the Specialist position. The search committee consisted of Loch, McLeod, the Advanced Specialist and Team Lead for the Banner Finance Team, and Patty Peebles, a Journey-level Specialist on the Banner Finance Team.

9. The job description for the Specialist position indicated that expertise in PL/SQL, SQL, Oracle Forms, Banner Finance, or AppWorx was highly preferred. The individual hired for the Specialist position needed to be highly technical, able to work independently and manage multiple complex projects simultaneously, conduct complex analyses and system design, and be a high-level programmer.

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10. At [the University], when applications are received for a vacant position, HR screens the applications to make sure they meet the position description's minimum qualifications. The search committee members are then given access to the online portal containing all applications meeting those minimum qualifications. HR does not designate applicants as more qualified or most qualified, but rather reserves that assessment for the search committee. HR does not note which applicants are State employees, career State employees, or internal to [the University], but applicants are asked to provide that information on their application and search committee members can view this information. HR does notify the search committee if an applicant has been affected by a Reduction-in-Force.

11. Each member of the search committee reviewed all applications that met the minimum qualifications for the Specialist position (as determined by HR), and then met to discuss and select which applicants would receive an interview.

12. The search committee selected [Johnson] to interview for the position. All applicants interviewed were asked the same questions and were then scored according to criteria pulled from the job description.

13. During her interview for the Specialist position, the interviewers felt that [Johnson] could not answer some of the technical questions about PL/SQL or questions concerning project management. Of the three candidates interviewed, [Johnson] received the lowest scores by the search committee.

14. The search committee found the projects listed on [Johnson]'s application were completed many years ago, and her application materials did not reflect a heavy amount of technical experience writing new scripts (as opposed to maintaining existing scripts) with PL/SQL.

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15. [Johnson]’s application denotes that she was project leader for Campus Loan Manager (“CLM”). [Johnson] testified that in recent years she has had to maintain the program. Loch stated that there was not a great deal of work involved in maintaining the program, and testified that CLM is a small system compared to Banner. Moreover, CLM interfaces with Banner, but is not part of the Banner system. Interfacing between two systems is not as complex as some of the projects a Specialist would be working on, and writing code to create a new program is more complex than maintaining an existing program. The search committee found that [Johnson]’s application did not provide any specifics to show how [Johnson] had supported the CLM project independently or demonstrated leadership.

16. [Johnson]’s application also listed “Banner AP backup”, and [Johnson] testified that she served as McLeod’s backup when McLeod held the Specialist position. Loch testified that the department was too thin to have true backups where one employee could cover another employee’s complete job duties. Rather, there was cross-training so that if one employee was out and something critical came up in her area, another employee could assist. McLeod explained that [Johnson] served as her backup only for check processing within Accounts Payable, in case McLeod was out and a check needed to be processed that day. [Johnson]’s duties as McLeod’s backup in this regard did not constitute an ability to complete all aspects of a Specialist’s job responsibilities, such as technical designing and complex integrated programming.

17. Based on her application materials and interview, the search committee concluded that [Johnson] was not qualified for the Specialist position. In fact, all the candidates interviewed for the Specialist position in 2014 received low scores by the search committee, so Loch decided to re-advertise the position on the grounds that none of the candidates who had applied were qualified for the position.

....

19. The Business & Technology Applications Specialist position was re-advertised several times with existing candidates considered, but no candidate was selected for the position. On June 1, 2015, the posting for the Specialist position had closed. Doug Stanley, who had been hired as the Banner Team Manager, took over as the hiring manager for the position. Stanley made some modifications to the job description and re-posted the Specialist position in July 2015. Although [Johnson] perceived the modified job posting to be less demanding than the original posting, Loch, Stanley, Peebles and McLeod testified that the modifications did not render the job description less demanding. All previous applicants were required to re-apply. [Johnson] submitted an application for the Business & Technology Applications Specialist position when it was reposted in July 2015.

20. The search committee following this posting consisted of Stanley, McLeod, Peebles, and Kim Goltra. Like Peebles, Goltra was a Journey-level Specialist on the Banner Finance Team. McLeod, Peebles, and Goltra shared similar responsibilities and would work closely with the individual hired for the Specialist position, and understood the skills required to be successful in the position.

21. [Johnson]'s application contained some misspellings, which at least one member of the search committee felt reflected carelessness. [Johnson] did not include a cover letter, resume, or list of references with her 2015 application. None was required for the applicant to be considered. The search committee declined to interview [Johnson], or any other applicant, for the position after it reviewed the applications received for the Specialist position in July and August of 2015. The position was re-advertised in September 2015, with existing candidates considered.

22. In October 2015, Steve Williamson, a probationary State employee working in ITCS at [the University], submitted an application for the Specialist position. . . .

23. On October 26, 2015, the position closed. The search committee reviewed all applications received and scored them using the same criteria as previous applications. Four candidates, including Williamson, were selected to receive interviews. [Johnson] was not selected to be interviewed.

24. Prior to submitting his application, Williamson had asked Loch if he would serve as a reference for Williamson. Loch agreed to serve as a reference to confirm employment and job responsibilities, but not to endorse one candidate over another. Williamson's application materials included a list of five references, one of whom was Loch. [Johnson] did not ask Loch to serve as a reference, but Loch testified that he would have agreed to do so, in the same manner that he did for Williamson, if she had asked.

25. Four candidates were interviewed and asked the same set of questions. The questions asked during the 2015 interviews were similar, although not identical, to those asked during the 2014 interviews. Ultimately, the questions asked in 2015 made the same inquiries, and the answers to those questions revealed the same information, as the questions asked during the 2014 interviews.

26. Steve Williamson was selected for the position. He was not a career State employee at the time he was selected for the Business & Technology Applications Specialist.

27. Williamson's application documented years of experience with PL/SQL and SQL on large projects. For each of Williamson's prior work experiences, his application explained how he used PL/SQL and SQL to accomplish specific tasks (e.g., "Designed a strategy and programmed interactive reports and data extract processes

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for University Advancement's new donor loyalty Doubloon Circle giving society using Oracle PL/SQL, SQL Server 2008 R2 Reporting Services (ecuBIC), and AppWorx. Authored database functions, stored procedures, views, and designed tables required," and "wrote PL/SQL scripts to load Excel and flat file data into the Study Management System Oracle databases.") Writing stored procedures, or reusable code that other programmers or programs can use, demonstrates advanced PL/SQL knowledge and functionality. . . .

28. [Johnson] listed PL/SQL as one of her relevant skills under a section titled "Additional Information" toward the end of the applications, but did not elaborate on the depth or scope of her experience with PL/SQL in either of her applications. [Johnson]'s application materials did not reflect an expertise in PL/SQL. . . .

29. Williamson's application materials demonstrated experience working with financial tools and programming finance-related projects (e.g., United States Air Force's Budget Program Activity Codes for procurement, budget transfer activity, and expense tracking). [Johnson]'s application lists "Banner Finance" in relation to her CLM work but does not elaborate on any finance experience.

30. During his interview, Williamson exhibited extensive programming experience and a thorough understanding of how to write PL/SQL code and interfaces. As part of his interview, Williamson wrote a program and presented it to the search committee, walking through the details to explain what he had done. Search committee members described his program as "outstanding", "impressive", and "professionally presented." McLeod, who had previously held the position, testified that Williamson had "everything that I was looking for... [Williamson] had the technical capability who could jump right in and start programming in whatever programming language you needed to, who could do design work if needed. . . . He was far superior to the other people in my book." . . .

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31. [Johnson] was not in the pool of applicants that were interviewed and from whom Williamson was selected. She did bring to her interview (where no applicant was found to be qualified for the position) a program that she had written in PL/SQL. She told the interviewers she had some programs she had written but did not offer them to the members and the members did not ask for them.

32. Williamson did not have extensive experience working in the Banner system. Loch and Stanley both explained that being familiar with the Banner system was not the more [sic] important; the technical skills to support the Banner system (i.e., PL/SQL development) was more important. Stanley acknowledged one would need to know how the Banner system functioned in order to work on the code that it is based. He thought it would take a few months to learn the system and Williamson had demonstrated through his previous work experience that he was capable of learning new languages and new systems.

33. The search committee was not unanimous in their decision of whom to hire for the Specialist position. According to Loch, the search committee at first did not agree on the most qualified candidate. Loch testified that three members of the Search Committee felt one candidate was the most qualified, and one person on the Search Committee felt a different person was the most qualified. Stanley testified that he and two others agreed that Williamson was the most qualified, but that Patty Peebles believed Kelly Varnell was more qualified than Mr. Williamson. No one on the search committee felt [Johnson] had equally substantial qualifications to Varnell or Williamson.

34. Kim Goltra testified that in the first discussions regarding selection, Doug Stanley and Patty Peebles felt that Kelly Varnell was the highest. Ms. McLoed [sic] also testified she believed Stanley and Peebles initially

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preferred Varnell. Goltra and McLoed [sic] both believed Williamson was the most qualified from the beginning of discussions.

35. Stanley contacted Loch about the disagreement concerning who the most qualified candidate was, and Loch sought guidance from the Business officer and Human Resources. Stanley was instructed to meet with Peebles to hear her concerns about Williamson. Ultimately, management did not share Peebles' concerns, and Peebles testified that after the discussion she agreed that Williamson was the most qualified candidate.

36. The search committee selected Williamson for the Specialist position, and submitted their scoring matrices and all supporting documentation to EIS Director Loch for review and approval, who forwarded it on to the Business officer.

....

39. Committee member McLeod deviated from the selection matrix format using her own grading system but still found Williamson ahead of Varnell though by a small margin. [Johnson] was not considered during her deliberation as she did not believe [Johnson] had substantially equal qualifications to either Williamson or Varnell.

40. Kim Goltra testified she did not believe [Johnson] should have received another interview for the position. She stated she ignored information she knew about any of the candidates based on her own working experience with them since she did not know personally the work experience of all candidates. She evaluated the candidates strictly on the application and resume if one had been submitted. Stanley also did not use any personal knowledge of the candidates when evaluating them for the position.

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41. Although [Johnson] believed she was qualified for the Specialist position, Loch, Stanley, Peebles, Goltra, and McLeod testified that [Johnson]’s application materials and first and only interview did not demonstrate that [Johnson] was qualified for the Specialist position. [Johnson] was not chosen for an interview where Williamson was selected for the position.

42. When Williamson was hired, Stanley sent an email to the department notifying them that Williamson had been selected for the Specialist position on the Banner Finance Team, where he would be “supporting the University’s Campus Loan Management software, Financial Aid Office, and maintain the Duplicate PIDM program.” . . . This summary of Williamson’s new responsibilities was not intended to be, and was not exhaustive of the Specialist position’s job duties.

43. [Johnson] had been working with CLM for fourteen years and duplicate PIDMs for three years, so this email indicated to her that she was qualified for the Specialist position. However, Loch testified that working with duplicate PIDMs (a unique identifier in the Banner system) is a skill that would take less than five minutes to pick up. [Johnson] had been manually updating records when a duplicate PIDM was discovered. Part of the Specialist’s responsibilities would be to automate that process, which required more programming and technical knowledge.

44. All five people who, at some point, served on the search committee for the Specialist position testified that [Johnson]’s qualifications were not substantially equal to Williamson’s qualifications for the Specialist position. Even considering [Johnson]’s years of State service, Williamson was substantially more qualified for the Specialist position than [Johnson] and possessed certain skills that many other current Specialists had not yet mastered.

Based on the above-quoted findings of fact, the ALJ determined that Johnson “failed to carry her burden that she had substantially equal qualifications as the selected candidate for the Specialist position.” For this reason, the ALJ affirmed the University’s decision.

Initially, the University contends that N.C. Gen. Stat. § 126-7.1(e) does not apply in this case given that Williamson was also a state employee — albeit a probationary employee. However, even assuming, without deciding, that Williamson’s status as a probationary employee required him to be treated as an “applicant who is not a State employee” for purposes of N.C. Gen. Stat. § 126-7.1(e), Johnson has failed to demonstrate that she met her burden of proving that she possessed substantially equal qualifications to Williamson such that she was entitled to priority consideration over him for the Specialist position.

Johnson contends that Finding Nos. 31, 32, and 44 are unsupported by competent evidence. For purposes of our analysis, however, we need not determine whether these challenged findings are supported by the evidence because the remaining findings of fact, which are unchallenged and therefore binding on appeal, support the ALJ’s ultimate determination. *See Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991) (“Where no exception is taken to a finding of fact by the trial court, the finding is presumed to be supported by competent evidence and is binding on appeal.”).

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We find instructive our decision in *Teague v. Western Carolina University*, 108 N.C. App. 689, 424 S.E.2d 684, *disc. review denied*, 333 N.C. 466, 427 S.E.2d 627 (1993). In *Teague*, the petitioner claimed that she was denied priority consideration pursuant to N.C. Gen. Stat. § 126-7.1 when she was not selected for a position as a Social Research Assistant II at Western Carolina University's Center for Improving Mountain Living. *Id.* at 689-90, 424 S.E.2d at 685. Another candidate who was not a state employee applied for the position and was ultimately chosen. *Id.* at 690, 424 S.E.2d at 685.

This Court affirmed the determination of the administrative law judge that the petitioner did not have substantially equal qualifications to the candidate selected for the position, stating as follows:

The evidence presented in the case at hand does not lead this Court to the conclusion that the Commission's decision to uphold [the Associate Director's] determination was "patently in bad faith" or "whimsical." [The Associate Director] had to make his decision based on the qualifications he found in the applications and elicited during the interviews. [Petitioner's] application did not state that she held an advanced degree, nor did it contain any references to her relevant and substantial experience. Even so, she had an opportunity to discuss such experience during her interview. Although [the Associate Director] testified that he gave all the applicants ample opportunity to describe related experiences and explain why they were best qualified for the position, [Petitioner] failed to do so. Based upon the information he had before him, [the Associate Director] reasonably concluded that [Petitioner's] qualifications were not "substantially equal" to [the candidate selected].

Id. at 692-93, 424 S.E.2d at 686-87 (internal citation omitted).

We reach a similar result here in that Johnson did not meet her burden of showing that she possessed substantially equal qualifications to Williamson for the Specialist position. The ALJ’s unchallenged findings of fact demonstrate that (1) the job posting for the Specialist position stated that “expertise in PL/SQL, SQL, Oracle Forms, Banner Finance, or AppWorx was highly preferred[;]” (2) *all* of the candidates — including Johnson — who initially applied for the Specialist position in 2014 received low scores from the search committee and were not selected for the position because they were deemed to be unqualified; (3) during her interview in 2014, Johnson did not offer any description of a program she had written in PL/SQL and “did not elaborate on the depth or scope of her experience with PL/SQL in either of her applications[;]” (4) the search committee determined that Johnson’s “application materials did not reflect a heavy amount of technical experience writing new scripts . . . with PL/SQL[;]” (5) Williamson’s application materials, conversely, “documented years of experience with PL/SQL and SQL on large projects” and “exhibited extensive programming experience and a thorough understanding of how to write PL/SQL code and interfaces[;]” (6) the search committee members described Williamson’s demonstration of a program he had written during his interview as “outstanding, impressive, and professionally presented[;]” and (7) none of the search

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committee members considered Johnson as possessing substantially equal qualifications to Williamson. (Quotation marks omitted.)

The ALJ's unchallenged findings make clear that even though Johnson had more years of experience with the Banner system, she did not possess the "skills, knowledge, and abilities [bearing] a reasonable functional relationship to the abilities and skills required" for the Specialist position. *See* N.C. Gen. Stat. § 126-7.1(g)(3). Thus, the ALJ properly concluded that Johnson was not substantially equal to Williamson as a candidate for the position and was therefore not entitled to priority consideration pursuant to N.C. Gen. Stat. § 126-7.1(e). Accordingly, we affirm the Final Decision rendered by the ALJ.

Conclusion

For the reasons stated above, we affirm the ALJ's Final Decision.

AFFIRMED.

Judges DILLON and INMAN concur.

Report per Rule 30(e).