

B-7



STATE OF NEW JERSEY

In the Matter of Michael Moeller,  
Borough of Butler

CSC Docket No. 2016-983

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

Administrative Appeal

ISSUED: **OCT 09 2015** (SLK)

The Borough of Butler (Butler) requests that the PM5012N eligible list be revived and Michael Moeller receive a retroactive date of appointment as a Police Lieutenant.

By way of background, the subject list promulgated on February 16, 2012 and expired on February 15, 2015. On January 4, 2013, the appointing authority states that Moeller was appointed to Police Lieutenant and was sworn into the position awaiting a certification. However, due to an oversight, the certification was not issued until May 20, 2014. On May 20, 2014, the sole certification (PL140497) was issued from the eligible list and Moeller was listed in the second position. Although it requested a January 4, 2013 appointment date for Moeller when it disposed of the certification, this date could not be recorded as the certification was issued on May 20, 2014. Accordingly, the appointing authority disposed of PL140497 reflecting the appointment of Moeller and the first ranked eligible effective June 1, 2014. In support of its request, the appointing authority provides documentation confirming that Moeller has been performing the duties of a Police Lieutenant since January 4, 2013. It is noted that The Division of Agency Services endorses the appointing authority's request.

CONCLUSION

N.J.A.C. 4A:4-1.10(c) provides that when a regular appointment is made, a retroactive appointment date may be ordered due to administrative error, administrative delay or other good cause. Generally, this unique remedy has been reserved for two particular situations. First, and germane to this matter, retroactive

appointment dates have been granted in circumstances in which an employee was actually serving in and performing the duties of a title, but, due to some error or other good cause, his or her attainment of permanent status was delayed or hindered. The second situation in which an employee may be awarded a retroactive date of permanent appointment is where the name of an employee, whose appointment would have otherwise been mandated, was improperly removed from or bypassed on an eligible list, thereby preventing the appointment. Additionally, *N.J.A.C. 4A:4-3.4* provides that the Civil Service Commission may revive an expired eligible to correct an administrative error.

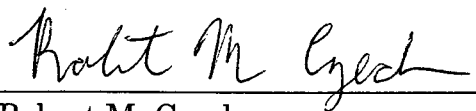
In the instant matter, the appointing authority submits documentation that it appointed Moeller to the title of Police Lieutenant effective January 4, 2013 and verifies that he has been performing the duties of the position since that date. However, due to an oversight by the appointing authority and the misfiling of paperwork, the certification (PL140497) was not issued until May 20, 2014. In light of this error and because Moeller, the second ranked eligible, would have been reachable for appointment at the time of his swearing-in, good cause has been presented to revive the PM5012N eligible list and provide Moeller with a retroactive permanent date of appointment effective January 4, 2013. In light of Moeller's service as a Police Lieutenant since January 4, 2013, a current working test period is not required.

### ORDER

Therefore, it is ordered that this request be granted and the PM5012N eligible list be revived so that personnel records can be amended to indicate Michael Moeller's permanent appointment to Police Lieutenant with an effective date of January 4, 2013.

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 DAY 7<sup>th</sup> OF OCTOBER, 2015



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