



STATE OF NEW JERSEY

In the Matter of Marc Silva, Town of Harrison :
CSC Docket No. 2016-2553 :

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

Request for Administrative Relief

ISSUED: OCT 21 2016 (SLK)

The Town of Harrison (Harrison), on behalf of Marc Silva, requests that he be permitted to participate in the intergovernmental transfer program and to complete his working test period as a Police Officer with Harrison.

By way of background, Silva was appointed as a Sheriff's Officer with the Hudson County Sheriff's Department effective July 1, 2015. Accordingly, his 12-month working test period commenced on July 1, 2015. Although Silva, the Hudson County Sheriff's Department, and Harrison agreed to the terms of the transfer, the Division of Agency Services (Agency Services) was unable to process the request since Silva had not achieved permanent status as a Sheriff's Officer. Since he has not completed his 12-month working test period, absent rule relaxation procedures, an intergovernmental transfer cannot be processed on the basis that he has not achieved permanent status in a substantially similar title. See N.J.A.C. 4A:4-7.1A(a).

In its request to the Civil Service Commission (Commission), Harrison asserts that Silva's service as a Sheriff's Officer has demonstrated that he is capable of performing the duties of a Harrison Police Officer. Further, Harrison explains that it is short Police Officers and will be short of manpower. Therefore, it has an immediate need to hire fully trained Police Officers. Under these circumstances, Harrison requests permission to allow Silva to complete the remainder of his working test period with Harrison and to process the request for an intergovernmental transfer.

CONCLUSION

N.J.A.C. 4A:4-7.1A(a) states that an intergovernmental transfer is the movement of a *permanent* employee between governmental jurisdictions operating under Title 11A or the appointment of an employee, by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from service from another governmental jurisdiction operating under Title 11A.

N.J.A.C. 4A:4-5.2(d) states in pertinent part that persons appointed to entry level law enforcement officer titles shall serve a 12-month working test period in order to obtain permanent status.

N.J.A.C. 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

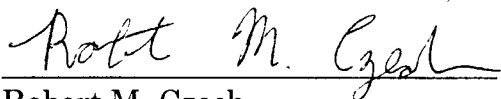
The intergovernmental transfer rules permit the transfer of permanent State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and Agency Services. In this case, Silva is not permanent since he has not completed his working test period as a Sheriff's Officer. However, Harrison has agreed to the transfer, indicating that it is short Police Officers and is in immediate need of fully trained law enforcement personnel. Additionally, Harrison has agreed to have Silva complete the required 12-month working test period. Given the circumstances surrounding Harrison's need for trained law enforcement staff, and the staffing needs of Harrison, good cause exists to relax the controlling regulatory provisions in order to permit the transfer of Silva and to allow him to complete his working test period with Harrison. Moreover, if necessary, it is appropriate to approve the retroactive intergovernmental transfer of Silva. See *In the Matter of Nicholas Rizzitello, Police Officer, Newark* (CSC, decided June 9, 2010). However, upon his appointment with Harrison, Silva shall be required to complete a new 12-Month working test period as a Police Officer.

ORDER

Therefore, it is ordered that this request, seeking the transfer of Marc Silva, to Harrison, be granted.

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 19th DAY OF OCTOBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Marc Silva

Mayor James Fife
Mayor Frank Schillari
Councilman James Doran, Chairman Police Dept.
Police Chief Derek Kearns
Paul Zarbetski, Town Clerk/Attorney
Kelly Glenn
Adeseye Sotimehin
Records Center