

B-13



STATE OF NEW JERSEY

In the Matter of Franklin Hernandez,
Police Sergeant (PM5144N), Perth
Amboy

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-377

Examination Appeal

ISSUED: APR - 2 2015 (JH)

Franklin Hernandez requests that he be permitted to file an application after the closing date for the promotional examination for Police Sergeant (PM5144N), Perth Amboy.

By way of background, the subject examination announcement was issued on September 1, 2011 with an application filing deadline of August 21, 2012, and all applications had to have been received by that date.¹ It is noted that 36 timely applications were submitted. It is also noted that the subject test was administered on June 1, 2013 and the resultant eligible list promulgated on August 7, 2014.

In a letter dated September 2, 2014, Mr. Hernandez explains that he is currently deployed overseas on active military duty and he was recently made aware through a fellow Police Officer that his name only appears on the Police Sergeant Bilingual in Spanish and English (PM5145N), Perth Amboy eligible list.² The Police Officer informed him that "apparently there were two different applications to be submitted prior to taking the Police Sergeant exam to qualify for both the General and Bilingual Sergeant Promotion . . . I did not have any prior

¹ In *In the Matter of Police Sergeant Promotional Lists* (CSC, decided September 19, 2012), the Civil Service Commission ordered that the announcements for Police Sergeant issued on September 1, 2010 and September 1, 2011 be amended to provide a closing date of September 30, 2012.

² The Police Sergeant Bilingual in Spanish and English (PM5145N), Perth Amboy examination announcement was issued on September 1, 2011 and amended in accordance with *In the Matter of Police Sergeant Promotional Lists, supra*.

knowledge of the filing process for the two different types of application . . . One of my grievances in this matter is that the Police Sergeant announcement was never properly displayed and thus[,] I had no resource of information regarding the different applications necessary to be completed to be eligible for the general and bilingual list.” He contacted Police Chief Ruiz, Captain Guzman and Captain Cattano and explained that the announcements for PM5144N and PM5145N were not posted in the Police Department. He indicates that Police Chief Ruiz, Captain Guzman and Captain Cattano advised him that the appointing authority has no intention of requesting a certification from the PM5145N list. He argues that he was “truly not aware or made aware of the different types of applications to be completed to be eligible for promotion under two different lists.” He maintains that his failure to submit a timely application for PM5144N did not “happen out of me being careless or irresponsible but because I never saw an announcement which would have given me the proper guidance in the different applications to be completed.”

CONCLUSION

N.J.A.C. 4A:4-2.1(b) provides that notices of promotional examinations and applications shall be provided to eligible employees. *N.J.A.C. 4A:4-2.1(e)* provides, in part, that applications for promotional examinations shall be filed no later than the announced filing date. As such, the rules clearly indicate that in order to establish eligibility for a promotional examination, an applicant must file a timely application. This provision is necessary for the Division of Agency Services to properly process the voluminous applications for various examinations. As a result of *In the Matter of Police Sergeant Promotional Lists, supra*, applications for the promotional examination for Police Sergeant (PM5144N), Perth Amboy, were due by the extended application filing deadline, August 21, 2012.

It is noted that the appointing authority was contacted regarding this matter and indicates that “the Police Sergeant Promotional Announcements, Bilingual in Spanish and English [with] the issu[e] date of September 01, 2011 [were posted] in the Office of Business Administration/Personnel and within the Police Department.” In addition, the appointing authority submits “documentation to support acknowledgement receipt of the promotional announcements from the Office of Personnel.” Specifically, the appointing authority provides copies of sheets entitled “Notice of Promotional Exam Police Sergeant (Bilingual) 9/1/2011 – 11/30/2011” and “Notice of Promotional Exam Police Sergeant 9/1/2011 – 11/30/2011” containing the signatures and dates of those individuals who received the respective subject announcements. It is noted that the appellant’s signature does not appear on either sheet. As such, the appointing authority has not clearly demonstrated that the appellant was notified of the subject examination pursuant to *N.J.A.C. 4A:4-2.1(b)*.

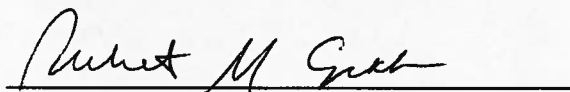
Given that the appointing authority has not shown that the appellant was notified of the subject examination, good cause has been presented to relax the provisions of *N.J.A.C. 4A:4-2.1(e)* and permit the appellant to file an application. Accordingly, the Division of Agency Services should send the appellant a written application for PM5144N upon receipt of this decision. The completed application and the required application processing fee should be forwarded within the time specified by the Division of Agency Services to: New Jersey Civil Service Commission, P.O. Box 322, Trenton, New Jersey 08625-0322. Failure to file the application and processing fees within the time provided will result in rejection from the examination process.

ORDER

Therefore, it is ordered that this request be granted, the appellant's application be accepted, contingent upon timely receipt of the completed application and processing fee.

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 1ST DAY OF APRIL, 2015**



Robert M. Czech
Chairperson
Civil Service Commission

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and
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c: Franklin Hernandez
Jillian C. Barrick
Kelly Glenn
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