



B-65

STATE OF NEW JERSEY

In the Matter of Franchino
Pignataro, Belleville Township

CSC Docket No. 2015-3364

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Administrative Appeal

Corrected Decision

ISSUED: JUL 17 2015 (SLK)

Belleville Township (Belleville) requests that Franchino Pignataro receive a retroactive date of appointment as a Police Sergeant.

By way of background, the promotional list for Police Sergeant (PM5093N) promulgated on August 7, 2014 and expires on August 6, 2017. On September 22, 2014, certification (PL141202) was issued and included the top three ranked eligibles. The appointing authority disposed of PL141202 by removing the top ranked eligible due to retirement, bypassing the second ranked eligible and appointing the third ranked eligible. Although his name was not listed on PL141202, the appointing authority indicates that it also appointed Mr. Pignataro, the fourth ranked eligible on PM5093N, effective September 22, 2014. The appointing authority states that when it requested three names be certified from PM5093N, it did so under the impression that the top ranked eligible's name would be omitted from the certification because he had already been separated from employment. Instead, the appointing authority expected Mr. Pignataro to be the third certified eligible and therefore appointed him prior to receipt of PL141202. It should be noted that Mr. Pignataro's appointment was eventually recorded on a subsequent certification (PL141490) with an appointment date of December 3, 2014.

In the present matter, Belleville requests to correct the file and record the appointment date of Mr. Pignataro effective September 22, 2014. In support of the request, the appointing authority has supplied a copy of Mr. Pignataro's Township of Belleville Personnel Action Form which shows a title and salary change effective September 22, 2014.

The Division of Agency Services endorses the appointing authority's request to record the retroactive appointment of Mr. Pignataro to Police Sergeant in Belleville effective September 22, 2014.

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.

In the instant matter, the appointing authority submits documentation that it appointed Pignataro to the title of Police Sergeant effective September 22, 2014 and verifies that he has been performing the duties of the position since that date. However, Mr. Pignataro, the fourth ranked eligible, was inadvertently omitted from the September 22, 2014 certification. In light of this error and because he would have been reachable for appointment at the time of the certification, good cause has been presented to provide Mr. Pignataro with a retroactive permanent date of appointment effective September 22, 2014, contingent upon his successful completion of a current working test period.

ORDER

Therefore, it is ordered that this request be granted and the permanent appointment of Franchino Pignataro's to the title of Police Sergeant be recorded as September 22, 2014, contingent upon his successful completion of a current working test period.

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 15th DAY OF JULY, 2015



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