



STATE OF NEW JERSEY

In the Matter of Jeffrey McCarrick,
Police Sergeant (PM0874V), Sparta

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

2020-651

CSC Docket Nos. ~~2020-697~~ and
2020-870

Administrative Appeal

ISSUED: October 29, 2019 (JH)

The Division of Agency Services (Agency Services), on behalf of Sparta, requests that Jeffrey McCarrick be assigned a retroactive appointment date to the Police Sergeant title. In addition, Jeffrey McCarrick seeks his eligibility for the promotional examination for Police Lieutenant (PM0936A), Sparta.

By way of background, the eligible list for Police Sergeant (PM0874V), Sparta, promulgated on May 24, 2018 with the names of 12 eligibles and is set to expire on May 23, 2021. McCarrick ranked second on the subject eligible list. Effective October 19, 2018, the first and to date, the only certification, was issued from the PM0874V eligible list (Certification No. PL181332). In disposing of PL181332, which contained the names of the first three eligibles, Sparta appointed McCarrick effective October 23, 2018.¹

In its request, Agency Services indicates that the appointing authority experienced an unexpected vacancy in its police department when a Police Sergeant retired abruptly effective August 1, 2018. The appointing authority explained that upon the recommendation of the Police Chief, McCarrick was asked “to fill this position for the purpose of maintaining departmental operations.” However, Agency Services notes that while the appointing authority indicated that it intended to promote McCarrick permanently to the title of Sergeant effective August 1, 2018, it failed to request a certification at that time. Agency Services further notes that

¹ It is noted that the first ranked eligible on the PM0874V list is a non-veteran and was bypassed.

that McCarrick has been performing the duties of a Police Sergeant since August 1, 2018. In support of its request, Agency Services attaches additional documentation including a Township of Sparta "Payroll Change Notice" which changed McCarrick's salary to "Sergeant's pay" effective August 1, 2018.

CONCLUSION

A retroactive appointment date "for seniority purposes only" may be approved when it is evidenced that an appellant could have been appointed on the subject date, but through error on the part of either the appointing authority or the Civil Service Commission, received a later appointment date, or for other good cause. *See N.J.A.C. 4A:4-1.10(c)*. The "for seniority purposes only" appointment designation establishes that an appellant has no claim for or entitlement to back pay. However, such an award establishes that for seniority-based programs, such as salary step placement, layoffs, and vacation leave time entitlement, seniority is predicated upon the retroactive appointment date. *See In the Matter of Wayne A. Robbins* (Merit System Board, decided September 5, 1991).

In the instant matter, the record establishes that the appointing authority intended to promote McCarrick to Police Sergeant effective August 1, 2018. However, due to administrative error, the appointing authority did not request a certification. Nevertheless, had the appointing authority requested a certification at that time, McCarrick could have been permanently appointed effective August 1, 2018. Furthermore, the appointing authority verifies that McCarrick has been serving as a Police Sergeant since August 1, 2018 and has successfully passed his working test period. Therefore, based on the foregoing, it is appropriate to grant a retroactive date of permanent appointment to the appellant as Police Sergeant effective August 1, 2018, for seniority and record keeping purposes.

With respect to the eligibility of McCarrick for the promotional examination for Police Lieutenant (PM0963A), Sparta,² this examination was open to employees in the competitive division who had an aggregate of one year of continuous permanent service in the title of Police Sergeant as of the closing date of September 30, 2019. As noted previously, McCarrick has been serving as a Police Sergeant in Sparta and he could have been permanently appointed on August 1, 2018. Thus, as of the September 30, 2019 closing date, he had completed the requisite one year period.

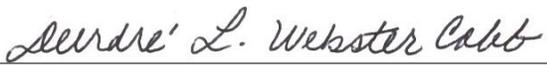
² It is noted that the subject announcement indicates that the test is scheduled to be administered in October 10, 2019 and McCarrick has been conditionally admitted pending the resolution of this matter.

ORDER

Therefore, it is ordered that this request be granted and McCarrick receive a date of permanent appointment to the Police Sergeant title effective August 1, 2018, and all of his seniority based benefits be adjusted accordingly. It is also ordered that McCarrick be admitted to the Police Lieutenant (PM0963A), Sparta promotional examination.

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
THE 23RD DAY OF OCTOBER, 2019



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

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