



**STATE OF NEW JERSEY**

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

In the Matter of Peter Posimato,  
Entry Level Law Enforcement  
Examination (S9999A)

Administrative Appeal

CSC Docket No. 2020-129

**ISSUED: OCTOBER 25, 2019** (HS)

Peter Posimato requests relief regarding the 2019 Entry Level Law Enforcement Examination (LEE) (S9999A).<sup>1</sup>

As background, the appellant, a non-veteran, took and passed the open-competitive examination for Police Officer (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated on March 29, 2017 and expires on March 30, 2020.<sup>2</sup> The appellant’s name was certified to Pompton Lakes on September 8, 2017, and he received a regular appointment, effective January 11, 2018. In light of the appellant’s appointment, his name was removed from the pool of eligibles for the Police Officer title area. *See N.J.A.C. 4A:4-4.7(h)*. However, the appellant could not complete academy training due to an injury and resigned on April 17, 2018. On June 11, 2019, the appellant’s name was restored to the pool of eligibles for the Police Officer title area pursuant to *N.J.A.C. 4A:4-5.5*, upon receipt of Pompton Lakes’ recommendation.

On appeal to the Civil Service Commission (Commission), the appellant maintains that he could have been restored to the pool of eligibles for the Police Officer title area earlier than June 11, 2019. Specifically, he claims to have been told, on May 22, 2019, by a staff member of this agency that Pompton Lakes should have sent its recommendation to this agency after his April 17, 2018 resignation. He also claims to have been told by another staff member of this agency that he

<sup>1</sup> The 2019 LEE was announced on July 1, 2019 with a closing date of August 31, 2019. The appellant filed an application for the 2019 LEE.

<sup>2</sup> The eligible list was extended one year to March 30, 2020.

remained “active on the list.”<sup>3</sup> The appellant states that as he was not receiving certifications for the title of Police Officer, he reached out to Pompton Lakes and was informed that it would not recommend his restoration unless he waived his right to seek future employment with Pompton Lakes.<sup>4</sup> The appellant contends that he was unfairly held back from the pool of eligibles for the Police Officer title area, causing him to miss employment opportunities. For relief, the appellant requests that his name be added to the Law Enforcement Series (S9999A) eligible pool with a score of 99.420, his score on the 2016 LEE (S9999U).

### CONCLUSION

*N.J.A.C.* 4A:4-5.5(a) provides that an employee who, either during or at the end of a working test period, resigns in good standing or is separated due to unsatisfactory performance may, upon request, be restored to an eligible list, if this agency determines that the employee is suitable for appointment to another position. This agency may consider the following factors: whether the list can be certified to another appointing authority; the recommendation of the employee’s former appointing authority; and any other relevant factors. *N.J.A.C.* 4A:4-5.5(a)1.

In this matter, the appellant argues that he could have been restored to the pool of eligibles for the Police Officer title area earlier than June 11, 2019 had Pompton Lakes sent its recommendation to this agency after his April 17, 2018 resignation. However, *N.J.A.C.* 4A:4-5.5 does not *obligate* an appointing authority to provide its recommendation. Moreover, even assuming the appellant’s name could have been restored earlier, he possessed no vested property interest in a Police Officer position. In this regard, the only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 *N.J. Super.* 494 (App. Div. 1990). Accordingly, the Commission declines the appellant’s extraordinary request to be added to the next Law Enforcement Series (S9999A) eligible pool without testing. If the appellant wishes to be part of that pool, he must take and pass the test.

### ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

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<sup>3</sup> The appellant does not claim that this staff member told him specifically that he remained active in the pool of eligibles for the Police Officer title area. At all relevant times, the appellant has remained active in the pool of eligibles for the Sheriff’s Officer title area.

<sup>4</sup> In a June 4, 2019 letter to Pompton Lakes, the appellant “waive[d] [his] right to accept any future certifications from . . . Pompton Lakes.”

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 23<sup>RD</sup> DAY OF OCTOBER, 2019



Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals and Regulatory Affairs  
Written Record Appeals Unit  
Civil Service Commission  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c. Peter Posimato  
Kevin Boyle  
Kelly Glenn