



**STATE OF NEW JERSEY**

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

In the Matter of Police Chief, Maple  
Shade Township

CSC Docket No. 2020-774

Examination Appeal

**ISSUED: NOVEMBER 12, 2019 (RE)**

Maple Shade Township, represented by Eileen K. Fahey, Esq., appeals the determination of the Division of Agency Services that denied its request to waive the promotional examination for Police Chief (PM0988A) Maple Shade.

By way of background, Christopher Fletcher took a promotional examination for Police Sergeant, and also successfully passed an examination for Police Lieutenant, and was appointed from an eligible list for PM2546H to that title. He was appointed to Police Captain in accordance with *N.J.A.C. 4A:4-2.7(a)*, by a waiver of examination, on August 19, 2010. The examination for Police Chief (PM0988A), Maple Shade Township was announced in August 2019, with a closing date of August 21, 2019, and Fletcher was the sole applicant for the examination. After the examination was announced, Maple Shade requested a Waiver of Promotional Examination for Fletcher to Police Chief from the Division of Agency Services (Agency Services).

In its denial, Agency Services explained that a waiver of examination requires that the criteria of *N.J.A.C. 4A:4-2.7(a)* be met. Agency Services also referred to a January 2, 2018 memorandum to all appointing authorities titled Police and Fire Promotional Announcements Waiver of Competitive Examination. This document indicates that it is the Civil Service Commission's (Commission) policy to accept a test for Police Captain, Police Inspector, or Deputy Police Chief, as a basic skills test for Police Chief. This memo indicated that there is no blanket prohibition against promoting an employee two consecutive times via a waiver of examination, if all of the conditions outlined in *N.J.A.C. 4A:4-2.7* are met. Thus, for

example, an employee who has been successfully tested at the Police Captain level could be considered for promotion via a waiver of examination to the title of Deputy Police Chief, and then again at a later date for the title of Police Chief.

On appeal, Maple Shade argues that the memo was policy, not a rule, and cannot be given the effect of law. It argues that the knowledge, skills and abilities (KSAs) for Police Lieutenant, Police Captain and Police Chief are virtually the same, with the difference being the amount of supervisory experience required. It argues that since Fletcher passed the examination for Police Lieutenant, he has shown the required KSAs for Police Chief. The appointing authority maintains that he is the only eligible, veterans preference is not a factor, and Fletcher has the required competencies. The appointing authority provides a letter from Scott A. Coffina, Prosecutor, Burlington County, in support of this appeal.

## CONCLUSION

*N.J.A.C.* 4A:4-2.2(a) states that the Chairperson or designee shall administer examinations for appointment in the competitive division of the career service which may include any one or more of the following: written tests; oral tests; performance tests; physical performance tests; evaluation of education, training or experience; computer-based tests; assessment exercises; and other appropriate measures of knowledge, skills and abilities.

*N.J.A.C.* 4A:4-2.7(a) states, following the announcement of a promotional examination, the Chairperson or designee may authorize the promotion of a qualified permanent employee in the career service by regular appointment without competitive examination and without the establishment of an eligible list if:

1. The employee has been successfully tested in the basic skills required for the promotional title;
2. The employee has not failed, within one year prior to the announced closing date, a promotional examination for that title. However, an employee who subsequently passed an examination for that title shall be eligible for promotion;
3. The number of interested eligibles for the promotional examination referred to in (a) above does not exceed the number of promotional appointments by more than two; and
4. Veterans preference rights are not a factor.

A review of the record indicates that a promotion upon the waiver of a competitive examination cannot be granted in this matter. As indicated above, *N.J.A.C.* 4A:4-2.7(a) requires that all four conditions be met before the Commission can consider a promotional examination waiver. The New Jersey Supreme Court has upheld the processing of an examination through the provisions of *N.J.A.C.* 4A:4-2.7 as being within the lawful discretion of this agency. See *Pringle v.*

*Department of Civil Service*, 45 N.J. 329 (1965) and *Falcey v. Civil Service Commission*, 16 N.J. 117 (1954). In *Pringle*, the Court, in a footnote, suggested that the subject rule should indicate that the way to determine whether a candidate had been tested successfully in the basic skills for the title was if the candidate had previously taken and passed an examination for the basic skills required in the position to which he was being promoted. A test administered by this agency ensures that a consistent standard is applied as there is no way to ensure consistency in the evaluation of employees serving in supervisory and managerial titles.

Although the appointing authority states that Fletcher has been tested in the basic superior officer skills of Lieutenant, he has not been tested in the basic skills for the Police Chief title. Indeed, in 1998 a review of the job analyses for Police Sergeant, Police Lieutenant, Police Captain, Inspector, Deputy Police Chief and Police Chief titles, disclosed that there were distinct differences in the basic skills required for some of these titles. Thus, it was determined that the basic skills were different among the following promotional title groups: 1) Police Sergeant; 2) Police Lieutenant/Police Captain; 3) Police Captain, Inspector, Deputy Police Chief and Police Chief. The review determined a uniqueness of the Police Captain title because it includes basic skills found in the Lieutenant/Captain and the Captain, Inspector, Deputy Chief and Chief title groups. Additionally, certain areas covered in the Police Chief examination (police administration, police management, and community relations, and oral communication), were not included in the testing for Lieutenant. It was determined that if a candidate successfully tested for the Lieutenant title, and was even waived into the Police Captain title, that candidate must still be tested in the basic skills of Inspector, Deputy Chief or Chief if seeking a promotion to one of those titles. It is noted that the amount of supervisory experience is an experience requirement, not a KSA.

At issue is not whether Fletcher has satisfactorily performed the duties of a provisional Police Chief, but rather whether he has been previously tested in the basic skills required by the Police Chief title. As the basic skills of a Police Lieutenant are different from those of Police Chief, an examination must be held. See *In the Matter of Thomas DePaul* (MSB, decided December 18, 2002), *In the Matter of Police Chief (PM3512G)*, *City of Bordentown* (MSB, decided July 27, 2005).

A thorough review of all material presented indicates that Agency Services' determination is supported by the record and that the appointing authority has failed to support its burden of proof in this matter.

### **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.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE SIXTH DAY OF NOVEMBER, 2019



Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

c: Christopher Fletcher  
Susan Danson  
Eileen K. Fahey, Esq.  
Kelly Glenn  
Records Center