



STATE OF NEW JERSEY

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

In the Matter of Jonathan Jenkins,
Irvington Township

Administrative Appeal

CSC Docket No. 2018-889

ISSUED: April 17, 2019 (WR)

Irvington Township requests that the provisions of N.J.A.C. 4A:4-7.1A(a) be relaxed in order to permit the retroactive Intergovernmental Transfer of Johnathan Jenkins from the title of Police Officer, Newark, to the title of Police Officer, Irvington. Mr. Jenkins requests admittance to the promotional examination for Police Sergeant (PM0812V), Irvington.

By way of background, Jenkins was laid off from his position as a Police Officer in Newark on November 30, 2010 before he had completed his 12-month working test period. As a result, Jenkins' name was placed on the "Probationary Rice Bill" list.¹ Thereafter, Irvington appointed Jenkins to the title of Police Officer, effective July 9, 2012. However, Jenkins's appointment as a Police Officer with Irvington was not recorded in the County and Municipal Personnel System (CAMPS). Jenkins subsequently applied for the Police Sergeant (PM0812V), Irvington promotional examination, which had a closing date of July 21, 2017, but was found ineligible because he was not employed in the announced unit scope. The examination was open to employees who, in part, were currently serving as a Police Officer. As a result of the examination, an eligible list promulgated on May 24, 2018 containing the names of 63 eligibles and expires on May 23, 2021. No certifications have been issued to date.

¹ The "Probationary Rice Bill List" can only be used by the appointing authority that laid off the individual since his or her name cannot be placed on a Special Reemployment List as he or she was not permanent. *See, N.J.S.A. 40A:14-180.1.*

Jenkins appealed the determination that he was not eligible for the Police Sergeant (PM0812V) examination, arguing that he was hired by Irvington as a Police Officer on July 9, 2012. Thus, since he had over five years of continuous service with Irvington as a Police Officer by the July 2017 closing date, Jenkins maintained that he was eligible for the PM0812V examination. In support of his appeal, Jenkins submitted copies of Internal Revenue Service (IRS) Wage and Income Transcripts from 2012 to 2016 and a copy of a pay stub indicating that his employer is Irvington.

As a result of Jenkins's appeal, staff from the Division of Appeals and Regulatory Affairs (DARA) contacted Irvington and advised that there was no record of Jenkins's appointment in CAMPS. In response, Irvington stated that the issue of Jenkins not being recorded in CAMPS as an active employee with Irvington was not known by it until he was found ineligible for the Police Sergeant (PM0812V) examination. It further explains that Jenkins was hired by a prior administration and it appears that there was confusion regarding use of the "Probationary Rice Bill List." Regardless, Irvington requests that Jenkins be held harmless and that he be permitted to retroactively be appointed via intergovernmental transfer procedures. Irvington also states that Jenkins completed his working test period.

CONCLUSION

N.J.A.C. 4A:4-7.1A(a), in pertinent part, states that an intergovernmental transfer is the appointment of an employee by a governmental jurisdiction operating under Title 11A, within one year of the effective date of a layoff for reasons of economy or efficiency in which the employee is separated from another governmental jurisdiction operating under Title 11A. *N.J.A.C.* 4A:4-7.1A(b) provides that an intergovernmental transfer shall require the consent in writing of the sending jurisdiction, if any, the receiving jurisdiction and the affected employee, and the approval of the Civil Service Commission (Commission). *N.J.A.C.* 4A:1-1.2(c) provides that a rule may be relaxed for good cause, in a particular circumstance, in order to effectuate the purposes of Title 11A of the New Jersey Statutes Annotated.

The purpose of the Intergovernmental Transfer Program is to promote more efficient public service by allowing State and local jurisdictions to obtain the services of talented and experienced individuals from other jurisdictions within the Civil Service system. However, absent a compelling emergent situation, such as public safety, accepting and employing interested applicants prior to formal agency approval could seriously circumvent the Civil Service system and frustrate the legislative goals of appointments based on merit and fitness as demonstrated in a competitive testing situation.

Based on the factual background in the instant matter, Irvington could not appoint Jenkins from the Probationary Rice Bill list as *N.J.S.A.* 40A:14-180.1 can only be utilized by the appointing authority that laid the individual off, *i.e.* Newark. However, Irvington appointed Jenkins as a Police Officer on July 9, 2012, apparently 18 months after he was laid off on November 30, 2010 by Newark, even though his name did not appear on any appropriate eligible list. Clearly, it was inappropriate to appoint Jenkins since his name was not on a valid eligible list, and at the time, he would have been ineligible for an intergovernmental transfer. However, given the unique factors of this case, the Commission is able to provide an equitable remedy. Agency records indicate that Irvington laid off Police Officers effective May 21, 2010 and their names were placed on the Special Reemployment List. However, Irvington reappointed all of these Police Officers from the Special Reemployment List, effective May 16, 2011. Therefore, the Special Reemployment list is exhausted. Given that Irvington intended to appoint Jenkins, a laid off Newark Police Officer, more than a year after the Special Reemployment List was exhausted, good cause exists to relax the provisions of *N.J.A.C.* 4A-7.1A(b) to permit him to participate in the intergovernmental transfer program more than 12 months after his layoff from Newark. Additionally, good cause exists to permit his retroactive participation in the intergovernmental program and appoint him, effective July 9, 2012. Jenkins is considered to have completed his working test period with Irvington, but will not retain any accrued seniority from Newark. Therefore, since Jenkins is deemed to have been permanent since July 9, 2012, the Commission also finds that he should be admitted to the promotional examination for Police Sargent (PM0812V), Irvington and granted a make-up examination. If he passes the examination, his name should be placed on the eligible list for prospective employment opportunities only.

ORDER

Therefore, it is ordered that this request be granted and the permanent appointment of Jonathan Jenkins to the title of Police Officer be recorded as July 9, 2012. Additionally, the Commission orders that he be admitted to the promotional examination for Police Sargent (PM0812V), Irvington and he be afforded a make-up examination consistent with this decision.

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 17th DAY OF APRIL, 2019

Deirdre L. Webster Cobb

Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Jonathan Jenkins
Musa A. Malik
Kelly Glenn
Record Center