



STATE OF NEW JERSEY

In the Matter of John Andreychak,  
Fire Captain (PM3582F), Bayonne

CSC Docket No. 2016-1122

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

Administrative Appeal

ISSUED: **NOV 16 2016** (RE)

John Andreychak, a Fire Captain with Bayonne, requests a retroactive appointment date based on "acting" duties for seniority scoring purposes.

By way of background, the petitioner was on the eligible list produced from the examination for Fire Captain (PM3582F), Bayonne. This list was promulgated on December 22, 2005, and expired December 21, 2008. It is noted that the City eliminated the position of Fire Lieutenant in an ordinance effective February 6, 2003. The eligible list for Fire Captain (PM3582F), Bayonne only contained the names of candidates in the Fire Fighter title and not the Fire Lieutenant title, preventing the direct promotion of the Fire Lieutenants to Fire Captain. As a result, pursuant to *In the Matter of Fire Captain, City of Bayonne* (MSB, decided April 26, 2006), the Fire Captain (PM3582F) eligible list's expiration date was extended to April 21, 2009 to prevent any harm to candidates on that list due to a required hold and conversions. The petitioner was subsequently appointed from a March 19, 2009 certification (PL090482) of this list on June 30, 2009. Prior to that appointment, the petitioner held the title Fire Fighter, to which he had been appointed on September 29, 1992.

On appeal, Mr. Andreychak argues that he was an "acting" Fire Captain from June 29, 2008 to his June 30, 2009 appointment from the list (PL090482). It is noted that the eligible list from which he was regularly appointed was in existence when Mr. Andreychak claims he was given an acting appointment, and he was reachable as he was first on the eligible list after other appointments had been made.

Commission staff responded that *N.J.A.C. 4A:2-1.1(b)*, states that, unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation or action being appealed. As the petitioner filed his appeal in September 2015, over seven years after he commenced as an acting Fire Captain, and over six years after his regular appointment, any appeal for retroactive seniority is untimely.

Mr. Andreychak responded that retroactive seniority was given by the Commission to a Fire Captain in Bayonne more than 20 days after his appointment, and he would like the same consideration. The appellant states that this would allow him one year of seniority credit on the examination for Battalion Fire Chief. While the petitioner does not name this individual, the Commission granted retroactive seniority for Salvatore Gaetani in *In the Matter of Salvatore Gaetani, Fire Captain (PM5209N), Bayonne* (CSC, decided June 17, 2015). In that decision, Mr. Gaetani was appointed on November 3, 2014, and he filed an appeal on April 6, 2015, five months later, after realizing that an Examination Information Alert indicated that announcements for Battalion Fire Chief examinations were scheduled for posting on July 1, 2015. In that matter, Bayonne indicated that Mr. Gaetani had been working as a Fire Captain since March 17, 2013 and it had no objection to Mr. Gaetani's eligibility for the upcoming Battalion Fire Chief examination (PM1491T). Nineteen candidates appeared for the written portion of that examination, and the oral portion has not yet been held.

*N.J.A.C. 4A:4-1.10(c)* states that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause.

## CONCLUSION

In the instant matter, the petitioner received an appointment to Fire Captain on June 30, 2009. The petitioner indicated that he had been working in an "acting capacity" since June 29, 2008, and he provided a copy of orders from a Battalion Fire Chief assigning him to Engine-6 as an acting officer until further notice. Pursuant to *N.J.A.C. 4A:2-1.1(b)*, the petitioner's request is extremely untimely. Bayonne's Fire Department underwent many organizational changes in the years prior to 2008, and the record is too old to reconstruct why the appellant was not certified sooner from the list for Fire Captain (PM3582F). The petitioner did not submit a request for retroactive seniority until over seven years after he commenced as an acting Fire Captain, six years after his appointment and several years after the eligible list for (PM3582F) had expired. Mr. Gaetani requested retroactive seniority five months after his appointment and before the list for (PM5209N) expired. As such, the petitioner is not similarly situated as Mr. Gaetani, and good


cause does not exist to warrant a retroactive appointment date based on the circumstances. This request is clearly untimely, and without merit.

ORDER

Therefore, it is ordered that the request 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 10<sup>th</sup> DAY OF NOVEMBER, 2016



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