



STATE OF NEW JERSEY

In the Matter of Sean Malone and
Brandin Whitham, Willingboro
Township

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

CSC Docket Nos. 2022-654 and 2022-
687

Administrative Appeals

ISSUED: MAY 23, 2022 (ABR)

Sean Malone and Brandin Whitham, Police Sergeants with Willingboro Township (Willingboro), request retroactive appointment dates to August 4, 2020, and July 27, 2020, respectively, based on administrative error. Malone and Whitham also request that they be admitted to the promotional examination for Police Lieutenant (PM4194C), Willingboro. Because these matters address similar issues, they have been consolidated herein.

By way of background, Whitham and Malone were appointed to the title of Police Officer by Willingboro, effective October 20, 2003, and October 18, 2004, respectively. Malone and Whitham appeared, respectively, as the first and seventh ranked eligibles on the Police Sergeant (PM0892V), Willingboro eligible list, which promulgated on May 24, 2018, and expires on May 23, 2022. The second, third and fourth ranked eligibles were appointed following the disposition of the May 3, 2019, (PL190598) and October 22, 2019, (PL191521) certifications. Subsequently, the appointing authority requested an additional certification from the PM0892V list from the Division of Agency Services (Agency Services), which was issued on July 21, 2020, (PL200672). In disposing of the July 21, 2020, certification, the appointing authority appointed Malone and Whitham, the eligibles listed in the first and third positions, respectively, to the title of Police Sergeant, effective October 2, 2020.

Subsequently, an examination (PM4194C) for Police Lieutenant, Willingboro was announced, which was open to applicants who possessed one year of permanent

service as a Police Sergeant as of the September 30, 2021, closing date. Malone and Whitham applied for the PM4194C examination, but were deemed ineligible, as they did not possess one year of continuous permanent service in the title of Police Sergeant as of the September 30, 2021, closing date. The subject examination was administered on October 23, 2021. The subject eligible list has not yet promulgated.

In the instant request, Malone and Whitham argue that they began performing all of the responsibilities for their positions as Police Sergeants on August 4, 2020, and July 27, 2020, respectively. Specifically, Malone states that he was informed that he would be starting his position on August 4, 2020, and began his training on July 30, 2020. Whitham states that he began his Police Sergeant training in the Willingboro Police Department's Criminal Investigation Division on July 27, 2020, and began cross-training on the midnight patrol shift on August 10, 2020. However, because of circumstances surrounding labor negotiations occurring at that time, Willingboro's former Township Manager held up the recording of their appointments. As such, they were not recorded until a new acting Township Manager took over in October 2020. In support, both provide, in relevant part, copies of a departmental email to the Judiciary, dated August 8, 2020, which requested that New Jersey Courts systems access for Malone and Whitham be updated. Specifically, the email requested the update "for [Willingboro's] 2 new sergeants [sic] so they can approve charges and complaints."

The appointing authority submits letters of support for both Malone and Whitham, in which it asserts that the effective dates for their appointments to the title of Police Sergeant were delayed due to administrative error. It requests that the effective dates of both of their appointments to the title of Police Sergeant should be amended to September 4, 2020.

CONCLUSION

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, on notice to affected parties. Generally, the award of a retroactive appointment date is for seniority purposes only and is limited to situations in which an appellant could have been appointed on the requested retroactive date, but as a result of an administrative error, he or she received a later appointment date.

In the instant matter, the record establishes that Malone and Whitham began training for the title of Police Sergeant in July 2020 and that the appointing authority intended to effectuate Malone's and Whitham's permanent appointments to the title of Police Sergeant, effective September 4, 2020. Therefore, based on the foregoing, ample cause exists to grant Malone and Whitham retroactive dates of appointment to the title of Police Sergeant. As Malone and Whitham have completed their working

test period as Police Sergeants, their permanent appointments should be recorded as September 4, 2020.

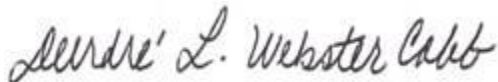
Finally, as Malone and Whitham are deemed to have been permanent in the Police Sergeant title since September 4, 2020, the Commission finds that they should be admitted to the Police Lieutenant (PM4194C), Willingboro examination.

ORDER

Therefore, it is ordered that Sean Malone's and Brandin Whitham's requests be granted and the July 21, 2020, certification of the Police Sergeant (PM0892V), Willingboro eligible list be amended to reflect the permanent appointments of Malone and Whitham, effective September 4, 2020. Additionally, it is ordered that Sean Malone and Brandin Whitham be admitted to and scheduled for a make-up for the promotional examination for Police Lieutenant (PM4194C), Willingboro. It is further ordered that if Malone and/or Whitham passes the subject examination, their addition to the PM4194C list shall be given retroactive effect.

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 18TH DAY OF MAY, 2022



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