

	STATE OF NEW JERSEY :	
In the Matter of Enrique Marrero, Township of North Bergen	: FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION	
CSC Docket No. 2018-2514	Administrative Appeal	
	ISSUED: May 4, 2018	(SLK)

The Township of North Bergen (North Bergen), represented by Thomas R. Kobin, Esq., and Enrique Marrero, a Police Sergeant, represented by Patrick P. Toscano, Jr. Esq., petition the Civil Service Commission (Commission) for a retroactive regular date of appointment for Marrero to Police Lieutenant, effective September 9, 2015.

By way of background, Marrero filed a lawsuit in the United States District Court for the District of New Jersey against North Bergen claiming that he was wrongfully not promoted prior to the expiration of the Police Lieutenant (PM5037P), North Bergen promotional eligible list. Additionally, Marrero received a Final Notice of Disciplinary Action from North Bergen suspending him for six working days. Marrero appealed his suspension to the Commission and the matter was transmitted to the Office of Administrative Law (OAL) for a hearing.¹ However, an agreement was reached by the parties resolving all actions in dispute. The settlement agreement provides, in pertinent part, that Marrero agrees to withdraw his disciplinary appeal and shall be promoted to the rank of Police Lieutenant retroactively effective September 9, 2015 and shall retire on July 14, 2018. The settlement agreement was also sent to the Department of the Treasury, Division of Pensions and Benefits for acknowledgement.

 $^{^{\}rm 1}$ On March 26, 2018, Marrero informed the OAL that he was withdrawing his appeal of his six working day suspension.

However, the subject eligible list expired on April 6, 2016. *N.J.A.C.* 4A:4-3.4 provides that an eligible list may be revived to implement an order of the Commission. The Commission strongly favors settlement by the parties. In this matter, the record indicates that acknowledgment of this particular agreement will have no adverse effect on any third party. It is noted that all other eligibles on this list have been promoted.

CONCLUSION

A review of the settlement indicates that it complies with Civil Service System law and rules. The policy of the judicial system strongly favors settlement. See Nolan v. Lee Ho, 120 N.J. 465 (1990); Honeywell v. Bubb, 130 N.J. Super. 130 (App. Div. 1974); Jannarone v. W.T. Co., 65 N.J. Super. 472 (App. Div. 1961), cert. denied, 35 N.J. 61 (1961). This policy is equally applicable in the administrative area. A settlement will be set aside only where there is fraud or other compelling circumstances. See Nolan, supra. In this matter, no such compelling circumstances exist. Therefore, the Commission finds a sufficient basis to revive the PM5037P eligible list to allow for the retroactive appointment of Marrero to Police Lieutenant, effective September 9, 2015.

ORDER

Therefore, the Commission orders that the Police Lieutenant (PM5037P), North Bergen, eligible list be revived so that personnel records can be amended to indicate Enrique Marrero's permanent appointment to Police Lieutenant with an effective date of September 9, 2015.

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 2nd DAY OF MAY, 2018

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c: Enrique Marrero Patrick P. Toscano, Jr. Esq. Allen Pascual Thomas R. Kobin, Esq. Kelly Glenn Records Center