



**STATE OF NEW JERSEY**

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

In the Matter of AsSaboor Beyah,  
Fire Fighter (M1516T), East Orange

CSC Docket No. 2017-3002

List Removal Appeal

**ISSUED: May 4, 2018**

**(SLD)**

AsSaboor Beyah appeals the decision of East Orange to remove his name from the Fire Fighter (M1516T) eligible list due to an unsatisfactory criminal record.

As background, the appellant was admitted to the subject examination which had a closing date of August 31, 2015. The resulting eligible list promulgated on March 11, 2016 and expires on March 10, 2019.<sup>1</sup> The appellant's name was certified to the appointing authority on June 30, 2016. In disposing of the subject certification, the appointing authority requested the removal of the appellant's name due to an unsatisfactory criminal record.

On appeal, the appellant argues that he had requested that his consideration for appointment be deferred due to family obligations. In support, he submits a letter he sent to the Department of Human Resource, East Orange in which he indicates that he had recently interviewed for the title of Fire Fighter, but was not admitted for entry to the last class for the academy and therefore, he requested that his application be deferred. The appellant also submits a March 21, 2017 letter from Sheilah A. Coley, Public Safety Director, East Orange Department of Public Safety. Specifically, Coley notes that during the interview for the position of Fire Fighter, the appellant indicated that he would like to defer an offer of employment and remain on the list for future consideration. She maintains that it was her understanding that with her acceptance, and the acceptance of the East Orange

<sup>1</sup> The expiration of the eligible list was extended one year.

Human Resources department, the appellant would remain on the eligible list. Therefore, she had no objection to his name remaining on the subject eligible list.

The appointing authority supports the appellant's request to be restored to the subject eligible list.

## CONCLUSION

*N.J.S.A.* 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 provide that an eligible's name may be removed from an eligible list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

The presentation to an appointing authority of a pardon or expungement shall prohibit an appointing authority from rejecting an eligible based on such criminal conviction, except for, *inter alia*, Fire Fighter titles. Additionally, pursuant to *N.J.S.A.* 11A:4-10, an appointing authority may only question an eligible for a law enforcement, firefighter or correction officer title as to any arrest. It is noted that the Appellate Division of the Superior Court remanded the matter of a candidate's removal from a Police Officer eligible list to consider whether the candidate's arrest adversely related to the employment sought based on the criteria enumerated in *N.J.S.A.* 11A:4-11. See *Tharpe v. City of Newark Police Department*, *supra*.

*N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

Initially, it is noted that the appointing authority had originally requested the appellant's removal based on his criminal record. However, on appeal, it now supports the appellant's request to be restored to the subject eligible list. In this regard, the appellant maintains that he had indicated that he was not interested at that time in an appointment, and wished to defer his consideration. Based upon the appointing authority's support of the appellant's instant appeal, his name should be restored to the subject eligible list for future employment opportunities only.

**ORDER**

Therefore, it is ordered that this appeal be granted.

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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