

## STATE OF NEW JERSEY

In the Matter of Adam Griesemer, Police Sergeant (PM5092N), Beachwood FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2019-647

Administrative Appeal

**ISSUED:** September 24, 2018 (JH)

The Division of Agency Services (Agency Services), on behalf of Beachwood, requests that Adam Griesemer be assigned a retroactive appointment date to the Police Sergeant title. Agency Services also seeks Griesemer's eligibility for the promotional examination for Police Lieutenant (PM1931W), Beachwood.

By way of background, the eligible list for Police Sergeant (PM5092N), Beachwood, promulgated on August 7, 2014 with the names of five eligibles and expired on May 23, 2018. Griesemer ranked third on the subject eligible list. Effective September 25, 2015, the first and only certification was issued from the PM5092N eligible list (Certification No. PL151074). In disposing of PL151074, which contained the names of all five eligibles, Beachwood appointed the first ranked eligible effective December 2, 2015.

In its request, Agency Services indicates that following the disposition of PL151074, the Borough appointed Griesemer as a Police Sergeant effective April 20, 2016. However, the appointing authority failed to request a certification at that time. Agency Services notes that the that Griesemer has been performing the duties of a Police Sergeant since April 20, 2016. In support of its request, Agency Services attaches additional documentation including Borough of Beachwood

<sup>&</sup>lt;sup>1</sup> It is noted that the initial expiration date of the PM5092N list, August 6, 2017, was extended one year. *See N.J.A.C.* 4A:4-3.3(b)1. The subsequent Beachwood Police Sergeant eligible list, PM0764V, was promulgated on May 24, 2018.

Resolution 2016-160 which indicates Griesemer's appointment as a Police Sergeant effective April 20, 2016.

## CONCLUSION

A retroactive appointment date "for seniority purposes only" may be approved when it is evidenced that an appellant could have been appointed on the subject date, but through error on the part of either the appointing authority or the Civil Service Commission, received a later appointment date, or for other good cause. See N.J.A.C. 4A:4-1.10(c). The "for seniority purposes only" appointment designation establishes that an appellant has no claim for or entitlement to back pay. However, such an award establishes that for seniority-based programs, such as salary step placement, layoffs, and vacation leave time entitlement, seniority is predicated upon the retroactive appointment date. See In the Matter of Wayne A. Robbins (Merit System Board, decided September 5, 1991).

In the instant matter, the record establishes that the appointing authority intended to promote Griesemer to Police Sergeant effective April 20, 2016, as evidenced by Borough of Beachwood Resolution 2016-160. However, due to administrative error, the appointing authority did not request a certification. Nevertheless, had the appointing authority requested a certification at that time, Griesemer would have been listed in the second position and reachable for appointment. Under these circumstances, good cause has been presented to revive the Police Sergeant (PM5092N), Beachwood list to effectuate Griesemer's regular appointment. Furthermore, the appointing authority verifies that Griesemer has been serving as a Police Sergeant since April 20, 2016 and has successfully passed his working test period. Therefore, based on the foregoing, it is appropriate to grant a retroactive date of permanent appointment to the appellant as Police Sergeant effective April 20, 2016, for seniority and record keeping purposes.

With respect to the eligibility of Griesemer for the promotional examination for Police Lieutenant (PM1931W), Beachwood,<sup>3</sup> this examination was open to employees in the competitive division who had an aggregate of one year of continuous permanent service in the title of Police Sergeant as of the closing date of September 30, 2018. As noted previously, Griesemer has been serving as a Police Sergeant in Beachwood and he could have been permanently appointed on April 20, 2016. Thus, as of the September 30, 2018 closing date, he had completed the requisite one year period.

<sup>&</sup>lt;sup>2</sup> It is noted that the second ranked eligible on the PM5092N list is a non-veteran and thus, could have been bypassed.

<sup>&</sup>lt;sup>3</sup> It is noted that the subject announcement indicates that the test is tentatively scheduled to be administered in October 2018.

## ORDER

Therefore, it is ordered that this request be granted and the Police Sergeant (PM5092N), Beachwood eligible list be revived in order to record the permanent appointment of Griesemer to the Police Sergeant title effective April 20, 2016, and all of his seniority based benefits be adjusted accordingly. It is also ordered that Griesemer be admitted to the Police Lieutenant (PM1931W), Beachwood promotional examination.

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 COMMISION THE 20TH DAY OF SEPTEMBER, 2018

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