



STATE OF NEW JERSEY

In the Matter of Gilbert Tavares,
Police Lieutenant (PM0945A),
Millburn

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

CSC Docket Nos. 2020-700 and
2020-703

Administrative Appeal

ISSUED: September 26, 2019 (JH)

The Division of Agency Services (Agency Services), on behalf of the Township of Millburn, requests that Gilbert Tavares be assigned a retroactive appointment date to the Police Sergeant title. Agency Services also seeks Tavares' eligibility for the promotional examination for Police Lieutenant (PM0945A), Millburn.

By way of background, the eligible list for Police Sergeant (PM0833V), Millburn, promulgated on May 24, 2018 with the names of 18 eligibles and is set to expire on May 23, 2021. Tavares ranked first on the subject eligible list. Effective August 14, 2019 the first certification was issued from the PM0833V eligible list (Certification No. PL191154).¹ In disposing of PL191154, which contained the names of the first three eligibles, the Township appointed Tavares effective August 15, 2019.

In its request, Agency Services indicates that the Township appointed Tavares as a Police Sergeant effective June 19, 2018. However, due to administrative error, the appointing authority failed to request a certification at that time. Agency Services notes that Tavares has been performing the duties of a Police Sergeant since June 19, 2018. In support of its request, Agency Services attaches additional documentation including Township of Millburn Resolution 18-165 which indicates Tavares' appointment as a Police Sergeant June 19, 2018.

¹ It is noted that to date, no further certifications have been issued from the PM0833V list.

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 Tavares to Police Sergeant effective June 19, 2018, as evidenced by Township of Millburn Resolution 18-165. However, due to administrative error, the appointing authority did not request a certification at that time. Nevertheless, had the appointing authority requested a certification at that time, Tavares could have been permanently appointed effective June 19, 2018. Furthermore, the appointing authority verifies that Tavares has been serving as a Police Sergeant since June 19, 2018. Therefore, based on the foregoing, it is appropriate to grant a retroactive date of permanent appointment to the appellant as Police Sergeant effective June 19, 2018, for seniority and record keeping purposes.

With respect to the eligibility of Tavares for the promotional examination for Police Lieutenant (PM0945A), Millburn,² 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, 2019. As noted previously, Tavares has been serving as a Police Sergeant in Millburn and he could have been permanently appointed on June 19, 2018. Thus, as of the September 30, 2019 closing date, he had completed the requisite one year period.

ORDER

Therefore, it is ordered that this request be granted and Tavares receive a date of permanent appointment to the Police Sergeant title effective June 19, 2018, and all of his seniority based benefits be adjusted accordingly. It is also ordered that Tavares be admitted to the Police Lieutenant (PM0945A), Millburn promotional examination.

² It is noted that the subject test is scheduled to be administered on October 10, 2019.

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
THE 25TH DAY OF SEPTEMBER, 2019

Deirdre' L. Webster Cobb

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Chairperson
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