



STATE OF NEW JERSEY

In the Matter of Marc D’Amore,
Police Captain (PM1286T), Elmwood
Park

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

CSC Docket No. 2020-728

Administrative Appeal

ISSUED: September 26, 2019 (JH)

The Division of Agency Services (Agency Services), on behalf of Elmwood Park, requests that Marc D’Amore be assigned a retroactive appointment date to the Police Captain title.

By way of background, the eligible list for Police Captain (PM1286T), Captain, promulgated on April 21, 2016 with the names of two eligibles and expired on April 20, 2019. D’Amore ranked first on the subject eligible list. Effective January 18, 2019, the first and only certification was issued from the PM1286T eligible list (Certification No. PL190068). In disposing of PL190068, Elmwood Park appointed D’Amore effective January 18, 2019 and the second ranked eligible effective March 21, 2019.

In its request, Agency Services indicates that due to the departure of the former Borough Clerk and technical difficulties with the Borough’s computer system, the appointing authority is unable to locate records indicating whether or not the Borough requested a certification at time of D’Amore’s promotion on July 1, 2016. Agency Services notes that the that D’Amore has been performing the duties of a Police Sergeant since July 1, 2016. In support of its request, Agency Services attaches additional documentation including Borough of Elmwood Park Resolution R-224-16 which indicates D’Amore’s appointment as a Police Captain effective July 1, 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).

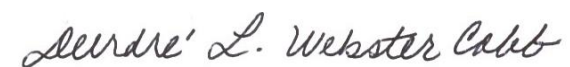
In the instant matter, the record establishes that the appointing authority intended to promote D’Amore to Police Captain effective July 1, 2016, as evidenced by Borough of Elmwood Park Resolution R-224-16. However, the appointing authority is unable to establish whether it requested a certification. Nevertheless, had the appointing authority requested a certification at that time, D’Amore would have been listed in the first position and reachable for appointment. Under these circumstances, good cause has been presented to revive the Police Captain (PM1286T), Elmwood Park list to effectuate D’Amore’s regular appointment. Furthermore, the appointing authority verifies that D’Amore has been serving as a Police Captain since July 1, 2016. Therefore, based on the foregoing, it is appropriate to grant a retroactive date of permanent appointment to the appellant as Police Captain effective July 1, 2016, for seniority and record keeping purposes.

ORDER

Therefore, it is ordered that this request be granted and the Police Captain (PM1286T), Elmwood Park eligible list be revived in order to record the permanent appointment of D’Amore to the Police Captain title effective July 1, 2016, and all of his seniority based benefits be adjusted accordingly.

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



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