



**STATE OF NEW JERSEY**

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

In the Matter of George Mundo and  
Guillermo Macias, City of West New  
York

Acknowledgment of Settlement

CSC Docket Nos. 2020-632  
2020-633

**ISSUED:** January 16, 2020 (RE)

The City of West New York petitions the Civil Service Commission (Commission) for the revival of the eligible list for Police Lieutenant (PM1514R) in order to acknowledge a settlement agreement, which provides for retroactive regular appointments for George Mundo and Guillermo Macias, effective January 28, 2017.

By way of background, George Mundo and Guillermo Macias were permanently appointed to Police Sergeant on November 20, 2007 and January 18, 2012, respectively. The eligible list for Police Lieutenant (PM1514R), West New York was issued on January 29, 2014 and expired on February 22, 2017. Mundo and Macias ranked ninth and tenth. The list was certified four times and eight appointments were made. West New York submitted a settlement agreement which includes the regular appointment of Mundo and Macias to Police Lieutenant, effective January 28, 2017.

Another examination, Police Lieutenant (PM1459U), West New York, was announced with a closing date of September 30 2016 and was open to Police Sergeants with one year of continuous permanent service in the title. Mundo and Macias did not file for the examination. That list was issued Febraury 15, 2017 and expires on February 15, 2020.

## CONCLUSION

*N.J.A.C.* 4A:4-3.4(a)5 states that the Commission may revive an expired eligible list for good cause.

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*. Moreover, *N.J.A.C.* 4A:4-1.10(c) provides:

When a regular appointment has been made, the [Commission] may order a retroactive appointment date due to administrative error, administrative delay or other good cause, on notice to affected parties.

The Police Director has indicated that two vacancies exist. As such, the Police Lieutenant (PM1514R), West New York eligible list should be revived so that Mundo and Macias can be regularly appointed with a retroactive appointment dates to January 28, 2017, for seniority purposes only, in order for West New York to come into compliance with the settlement. 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).

## ORDER

Therefore, it is ordered that these requests be granted, and the Police Lieutenant (PM1514R), West New York eligible list be revived for George Mundo and Guillermo Macias to receive retroactive regular appointments<sup>1</sup> to January 28, 2017 as Police Lieutenants, for seniority purposes only, and their personnel records be amended in accordance with this decision.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

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<sup>1</sup> It is noted that the award of a retroactive date of **permanent** appointment is contingent upon the employees’ successful completion of a current working test period.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 15<sup>th</sup> DAY OF JANUARY, 2020



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