



STATE OF NEW JERSEY

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

In the Matter of Supervisor of Motor
Pool (M0599T), Newark

Request for Enforcement

CSC Docket No. 2018-1292

ISSUED: MARCH 16, 2020 (HS)

The Division of Agency Services (Agency Services) requests that Newark be ordered to return the May 17, 2016 certification (OL160626) of the eligible list for Supervisor of Motor Pool (M0599T) for proper disposition.

By way of background, Newark provisionally appointed Europe Harmon, pending open-competitive examination procedures, to the title of Supervisor of Motor Pool effective August 4, 2014. This provisional appointment generated an examination announcement (M0599T) for the subject title with a closing date of August 25, 2015, which resulted in a list of three eligibles that promulgated on January 7, 2016 and expired on January 6, 2019. It is noted that Harmon was deemed ineligible. A certification (OL160034) was issued on January 11, 2016 and consisted of three eligibles, including Amani Shakur and L.A. All three eligibles were tied at rank one. Newark returned the certification indicating that Shakur and L.A. were interested and requesting the removal of the third eligible but that no appointments would be made since the certification was incomplete.

Thereafter, Shakur contacted Agency Services and indicated that he was interested in a provisional appointment. As a result, a second certification (OL160626) consisting of the names of Shakur and L.A. was issued on May 17, 2016. Newark did not return the certification by the required disposition date. Agency Services issued a Notice of Violation and Salary Disapproval Order, both of which notified Newark that it was required to properly dispose of the certification. However, Newark failed to return the certification. Subsequently, Agency Services referred the matter to the Civil Service Commission (Commission) for enforcement.

Newark was notified that the matter had been referred to the Commission for enforcement and it was advised that since Shakur had indicated that he was interested in the provisional appointment, it must either provisionally appoint him to the subject title or vacate the provisional position. *See N.J.A.C. 4A:4-4.2(c)2i*. Newark was also advised that any failure on its part to return the certification with the necessary changes could subject it to the assessment of costs, charges and fines pursuant to *N.J.A.C. 4A:10-2.2(b)*.

Despite several opportunities to do so, including in February 2020, Newark has not returned the certification as requested nor has it submitted any additional information. Personnel records do, however, reveal that Newark provisionally appointed Shakur to the subject title effective August 27, 2018 and provisionally appointed Harmon to the title of Senior Computer Operator effective August 1, 2019.

CONCLUSION

N.J.S.A. 11A:4-8 and *N.J.A.C. 4A:4-4.2(c)2i* provide that when fewer than three interested eligibles are certified and no provisional currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; make a provisional appointment from the list; make a provisional appointment of another qualified person if no eligible on the list is interested; or vacate the position/title.

In the instant matter, Shakur indicated his interest in, and ultimately received, the provisional appointment. Harmon was provisionally appointed to a different title. Nevertheless, *N.J.A.C. 4A:4-4.8(b)* still required Newark to notify Agency Services of the disposition of the certification by the disposition due date in the manner prescribed by this agency. Clearly, Newark has violated this vital regulation. The Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *N.J.S.A. 11A:10-3*; *N.J.A.C. 4A:10-2.1(a)2*. *See In the Matter of Fiscal Analyst (M1351H), Jersey City*, Docket No. A-4347-87T3 (App. Div. February 2, 1989). As such, it is appropriate to assess compliance costs in the amount of \$1,000.

ORDER

Therefore, it is ordered that the disposition of the May 17, 2016 certification (OL160626) of the eligible list for Supervisor of Motor Pool (M0599T) be recorded to reflect Amani Shakur's provisional appointment effective August 27, 2018.

Furthermore, the Commission orders that the costs incurred by this agency in the compliance process be assessed against Newark in the amount of \$1,000, pursuant to *N.J.S.A.* 11A:10-3 and *N.J.A.C.* 4A:10-3.2(a)5, to be remitted within 30 days of receipt of this decision.

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 12TH DAY OF MARCH, 2020



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