



STATE OF NEW JERSEY

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

In the Matter of S.B., Police Officer
(S9999A), City of Paterson

CSC Docket No. 2021-601

Medical Examiners Panel Appeal

ISSUED: NOVEMBER 1, 2021 (DASV)

S.B. appeals the request by the City of Paterson to remove his name from the Police Officer (S9999A) eligible list for medical unfitness to perform effectively the duties of the position.

N.J.A.C. 4A:4-6.5 provides for the Civil Service Commission (Commission) to utilize the expertise of the Medical Examiners Panel (Panel) to make a Report and Recommendation on medical disqualification issues. The Panel is composed of medical professionals, all of whom are faculty and practitioners of Rutgers New Jersey Medical School.

This appeal was brought before the Panel on August 9, 2021, which rendered its final Report and Recommendation on September 13, 2021.¹ The appellant was present at the meeting. The appointing authority was not present. No exceptions were filed by the parties.

The report by the Panel discusses all submitted evaluations. In this case, on behalf of the Panel, the Panel’s Chairperson, the Director of Occupational Medicine Service, Rutgers New Jersey Medical School, requested that the appellant submit a copy of his optometrist’s report, as he was disqualified from the subject position due to color blindness. Upon a review of that report, the Panel found the appellant did not have color blindness but has difficulties distinguishing shades of gray.

¹ The Panel issued an initial report on August 10, 2021, and it requested additional information.

Notwithstanding the latter, the Panel did not concur with the appointing authority's medical disqualification of the appellant.

CONCLUSION

The Job Specification for Police Officer is the official job description for such municipal positions within the Civil Service system. According to the specification, a Police Officer, during an assigned tour of duty, on foot, or in an automobile, patrols a designated area to provide assistance and protection for persons, to safeguard property, to assure observance of the law, and to apprehend law-breakers; and does related work as required. Police Officers are responsible for their lives and the lives of other officers and the public. In addition, they are entrusted with lethal weapons and are in daily contact with the public. They use and maintain expensive equipment and vehicle(s) and must be able to drive safely as they often transport suspects, witnesses and other officers. A Police Officer performs searches of suspects and crime scenes and is responsible for recording all details associated with such searches. A Police Officer must be capable of responding effectively to a suicidal or homicidal situation or an abusive crowd. The job also involves the performance of routine tasks such as logging calls, recording information, labeling evidence, maintaining surveillance, patrolling assigned areas, performing inventories, maintaining uniforms and cleaning weapons.

Having considered the record, including the Job Specification for Police Officer, and the Panel's Report and Recommendation issued thereon and having made an independent evaluation of the same, the Civil Service Commission (Commission) accepts and adopts the findings and conclusions as contained in the Panel's Report and Recommendation. The Panel found that the appellant did not have color blindness. While he may have difficulties distinguishing shades of gray, the Panel did not concur with his medical disqualification. Therefore, under these circumstances, there is not a sufficient basis to remove the appellant from the subject eligible list for medical unfitness. Accordingly, the appellant should be considered to be medically capable of undergoing the training involved to be a Police Officer and to perform the duties associated with the position.

ORDER

The Commission finds that the appointing authority has not met its burden of proof that S.B. is medically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that the appellant's name be restored to the subject eligible list. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans with Disabilities Act (ADA), 42 *U.S.C.A.* §12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological

examination. *See also* the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon successful completion of his working test period, the Commission orders that appellant be granted a retroactive date of appointment to September 17, 2020, the date he would have been appointed if his name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay, except the relief enumerated above.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 27TH DAY OF OCTOBER, 2021



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