



STATE OF NEW JERSEY

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

In the Matter of Police Lieutenant
(PM4118C), City of Jersey City

Administrative Appeals

CSC Docket Nos. 2022-369 and 2022-
414

**ISSUED: SEPTEMBER 24, 2021
(ABR)**

The City of Jersey City (Jersey City) and Jozip Soliman appeal the determination of the Division of Agency Services (Agency Services), which denied Jersey City’s request to reduce the one-year service requirement in the title of Police Sergeant to the completion of the working test period for the promotional examination for Police Lieutenant (PM4118C), Jersey City.

By way of background, the Police Lieutenant (PM4118C), Jersey City, examination was announced on July 1, 2021 with a closing date of September 30, 2021 and was open to employees in the competitive division who possessed one year of continuous permanent service in the title of Police Sergeant. It is noted that 52 eligibles were admitted to the subject examination, which is tentatively scheduled to be administered in October 2021.

By letter dated July 16, 2021, the appointing authority petitioned Agency Services for a reduction of the one-year service requirement to completion of the working test period. In this regard, Jersey City maintained that, due to the COVID-19 pandemic, it was forced to delay the promotion of 21 Police Officers to the Police Sergeant title until November 2020.¹ It also stated that it anticipated having to make a significant number of appointments to the Police Lieutenant title within the next year because of the large number of employees who were eligible to retire or had retired.

¹ Agency records indicate that Soliman was appointed to the title of Police Sergeant, effective January 28, 2021.

Agency Services, by letter dated July 30, 2021, noted that a 2019 Jersey City ordinance provided for 80 Police Lieutenant positions, of which 69 were filled and 11 were vacant. Agency Services found that because there were more than 50 employees eligible for the Police Lieutenant (PM4118C), Jersey City examination, there would likely be a sufficient number of eligibles to fill vacancies in the Police Lieutenant title. Accordingly, it denied the appointing authority's request to reduce the time-in-grade requirement for the subject examination.

On appeal to the Civil Service Commission (Commission), the appointing authority argues that valid reasons support its request to reduce the time-in-grade requirement. It states that it currently has vacancies in the subject title and that it has made some provisional appointments. It anticipates that with the growth of its residential, daily and commuter populations, it will need to increase the size of its police force and it maintains that it will need to begin its expansion with the superior officer ranks, so as to ensure adequate supervision is in place before it can increase the number of patrol officers on its force. It adds that it has a number of impending and anticipated retirements in the Police Lieutenant rank. Specifically, it submits that 51 incumbents are currently serving in the title of Police Lieutenant², two of whom have already retired. It notes that this figure is far below the 80 positions in that title authorized under its table of organization. It advises that as of July 2021, it had 86 incumbents serving in the title of Police Sergeant, including 35 who were promoted to that title, effective November 24, 2020.³ It indicates that 34 Police Sergeants not currently eligible to sit for the PM4118C examination will complete one year of in-grade service on November 23, 2021. The appointing authority contends that a waiver of the one-year in grade requirement is warranted in light of its need for an increase in the superior officer ranks, particularly as it does not know how many eligibles will sit for the subject examination. It proffers that all incumbents have successfully completed their working test periods for their current rank and it asserts that reducing the one-year service requirement to completion of the working test period to increase the eligibility pool for the subject examination would serve the civil service system's aims of ensuring efficient and effective delivery of public services and providing more employees with advancement opportunities based on merit and fitness. The appointing authority also stresses that it wishes to avoid exhausting the list, having to make provisional appointments and having to requesting another promotional examination. Finally, it states that it anticipates that the promulgation of and appointments from the subject eligible list will occur after all of the current Police Sergeants have completed one year of in-grade service.

² Agency records indicate that there are currently 69 employees serving in the title of Police Lieutenant with the appointing authority. If some of these incumbents are no longer actively serving in the title of Police Lieutenant, the appointing authority must ensure that it updates the County and Municipal Personnel System (CAMPS) to reflect any applicable changes to the employment records for these individuals.

³ The appointing authority advises that one of the incumbents appointed to the title of Police Sergeant in November 2020 has since retired.

Soliman argues that if the Commission does not grant the waiver, there will only be 52 eligibles for the PM4118C examination, including four who are presently eligible to retire and 18 who are eligible to retire by 2024. He asserts that if the eligible Police Sergeants are the only personnel admitted to the subject examination, the resulting list will be exhausted and Jersey City will have an insufficient number of supervisors based on its table of organization. He maintains that Jersey City has 29 vacancies in the title of Police Lieutenant out of the 80 provided under its table of organization.

CONCLUSION

N.J.A.C. 4A:4-2.6(a)1 provides that applicants for promotional examinations shall have one year of continuous permanent service for an aggregate of one year immediately preceding the closing date in a title or titles to which the examination is open. *N.J.A.C.* 4A:4-2.6(g) states, in relevant part, that an appointing authority may request that the time requirements specified in *N.J.A.C.* 4A:4-2.6(a) be reduced to completion of the working test period if:

1. There is currently an incomplete promotional list and/or the number of employees eligible for examination will result in an incomplete list;
2. It appears that vacancies to be filled within the duration of the promotional list will exceed the maximum number of eligibles that could result from examination; or
3. Other valid reasons as determined by the Chairperson or designee.

The Commission is responsible for the review and determination of requests to reduce the one-year service requirement to the completion of the working test period. Such requests are at the discretion of the appointing authority. Nonetheless, while an appointing authority may initiate a request, this request may be denied by the Commission if it does not meet the criteria set forth in *N.J.A.C.* 4A:4-2.6(g).

In the instant matter, the appointing authority has not demonstrated that it meets the criteria set forth in *N.J.A.C.* 4A:4-2.6(g). In this regard, since 52 applicants have been admitted to the subject examination, the conditions of *N.J.A.C.* 4:4-2.6(g)1 have not been met, as it does not appear that an incomplete list is likely to occur after the administration of the subject examination. Additionally, with regard to the requirement of *N.J.A.C.* 4A:4-2.6(g)2, the record establishes that there are presently 21 vacancies in the Police Lieutenant title out of 80 authorized under Jersey City's table of organization. Although the appointing authority maintains that it will need to increase the number of Police Lieutenant positions

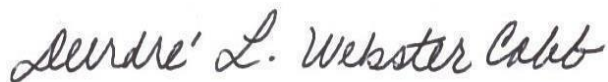
within its ranks and that there are a number of impending and anticipated retirements in that title, the information it has provided does not clearly establish that the number of vacancies will exceed the maximum number of eligibles that could result from the subject examination. Notably, the appointing acknowledges that it does not know how many employees will be retiring. The Commission emphasizes that the foregoing information is critical, as it cannot base its decisions on future contingencies. Even assuming *arguendo* that there are only 49 individuals currently serving in the title of Police Lieutenant, it cannot be said that the appointing authority has demonstrated that it meets the criteria *N.J.A.C.* 4A:4-2.6(g)2. Moreover, the information submitted by the appointing authority has not demonstrated that a valid reason exists to reduce the time-in-grade requirement pursuant to *N.J.A.C.* 4A:4-2.6(g)3. Similarly, the information Soliman presents has not established a basis to reduce the time-in-grade requirement for the subject examination in accordance with *N.J.A.C.* 4A:4-2.6(g).

ORDER

Therefore, it is ordered that these appeals be denied.

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 22 DAY OF SEPTEMBER, 2021



Deirdre L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Allison Chris Myers
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: John Metro (2022-369)
Arthur K. Thibault, Jr., Esq. (2022-369)
Jozip Soliman (2022-414)
Division of Agency Services