



STATE OF NEW JERSEY

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

In the Matter of Police Captain
(PM3447C), City of Jersey City

Administrative Appeal

CSC Docket No. 2022-593

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

The City of Jersey City (Jersey City), represented by Arthur R. Thibault, Jr., Esq., appeals 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 Lieutenant to the completion of the working test period for the promotional examination for Police Captain (PM3447C), Jersey City.

By way of background, the Police Captain (PM3447C), 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 Lieutenant. It is noted that 33 eligibles were admitted to the subject examination, which is tentatively scheduled to be administered in October 2021.

By letter dated July 20, 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 residential growth, and daily and commuter populations, it anticipated a need to increase the size of its police force. It advised that it had 51 employees serving in the title of Police Lieutenant, of whom 18 were then ineligible for the PM3447C examination, but would achieve the one-year time-in-grade requirement on November 23, 2021. The appointing authority advised that it was unsure how many of those already deemed eligible for the PM3447C examination would actually sit for the examination and how many intended to retire in the coming months. It asserted that because all of its Police Lieutenants had successfully tested for superior officer ranks and had all successfully completed the working test periods

for the title of Police Lieutenant, its request should have been granted in light of its need for an increase in superior officer ranks. In this regard, it averred that doing so 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.

Agency Services, by letter dated September 2, 2021, noted that a 2019 Jersey City ordinance provided for 35 Police Captain positions, but that agency records indicated that 46 were filled, meaning that the appointing authority had exceeded the allowable number indicated in the table of organization by 11. In addition, it noted that there were 49 Police Lieutenants with one year of continuous permanent service in that title. Further, it observed that there was no indication of how many of the 49 Police Lieutenants eligible to apply for the PM3447C examination and the 46 incumbents in the title of Police Captain, there was no indication of how many had filed retirement papers. Accordingly, Agency Services found that it was likely that there would be a sufficient number of candidates to fill Police Captain vacancies in Jersey City. Therefore, it determined that the criteria required to reduce the permanent service requirement for the subject examination to completion of the working test period had been not been met and it denied the appointing authority's request.

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 reiterates many of the arguments it made in support of its request to Agency Services, including the need to ensure adequate supervision is in place before it can increase the number of patrol officers on its force to meet the needs associated with the anticipated growth of Jersey City. It adds that it has a number of impending and anticipated retirements in the Police Captain rank. The appointing authority further 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 submits that 51 incumbents are currently serving in the title of Police Lieutenant, two of whom have already retired. It indicates that 18 Police Lieutenants not currently eligible to sit for the PM3447C examination will complete one year of in-grade service on November 23, 2021. 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 request 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 Lieutenants have completed one year of in-grade service.

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 33 applicants have been admitted to the subject examination, the conditions of *N.J.A.C.* 4A: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 46 incumbents in the Police Captain title, which exceeds the 35 authorized under Jersey City's table of organization by 11 positions¹. Although the appointing authority maintains that it will need to ensure that a sufficient number of Police Captain positions within its ranks remain filled to ensure the necessary supervision is in place to meet anticipated departmental needs, the information it has provided does not clearly establish that the number of vacancies will exceed the

¹ The Commission stresses that if any of these incumbents are no longer actively serving in the title of Police Captain, 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.

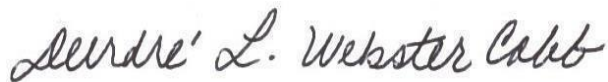
maximum number of eligibles that could result from the subject examination. In this regard, the appointing authority has not addressed the apparent number of encumbered Police Captain positions it has in excess of what is authorized under its table of organization and it acknowledges that it does not 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. Therefore, the totality of the record fails to demonstrate that the appointing authority met the criteria set forth in *N.J.A.C. 4A:4-2.6(g)2*. Finally, 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*. Accordingly, there does not appear to be a basis to disturb Agency Services' determination in this matter.

ORDER

Therefore, it is ordered that this appeal 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



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