



**STATE OF NEW JERSEY**

In the Matter of Scott Krissinger, Jr.  
City of Cape May

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

CSC Docket No. 2022-875

Administrative Appeal

**ISSUED: MARCH 25, 2022 (ABR)**

Scott Krissinger, Jr., a Police Sergeant with the City of Cape May (Cape May) requests a retroactive appointment date of September 10, 2020, based on administrative error. Krissinger also requests that he be admitted to the promotional examination for Police Lieutenant (PM4088C), Cape May.

By way of background, Krissinger appeared as the second ranked eligible on the Police Sergeant (PM0780V), Cape May eligible list, which promulgated on May 24, 2018 and expires on May 23, 2022. The first ranked eligible was appointed following the disposition of the February 7, 2019 (PL190150) certification. Krissinger was appointed to the title of Police Sergeant, effective October 19, 2020, following the disposition of the September 8, 2020 (PL200803) certification. Two applicants were initially admitted to the subject examination after the application filing deadline. Subsequently, the appellant was conditionally admitted to the subject examination, which was administered on October 23, 2021.

Subsequently, an examination (PM4088C) for Police Lieutenant, Cape May was announced, which was open to applicants who possessed one year of continuous permanent service in the title of Police Sergeant as of the September 30, 2021 closing date. Krissinger applied for the PM4088C examination, but was deemed ineligible, as he did not possess one year of continuous permanent service in the title of Police Sergeant as of the September 30, 2021 closing date.

In his request, Krissinger states that he has been performing the duties of a Police Sergeant since September 10, 2020 and requests to be admitted to the Police Lieutenant (PM4088C) examination on that basis. He also notes that *N.J.A.C. 4A:4-2.6(g)(2)* permits an appointing authority to request that the time-in-grade requirement for a promotional exam be reduced to completion of the working test period if it appears that the vacancies to be filled within the duration of the promotional list will exceed the number of eligibles that could result from the examination. Krissinger avers that it is very likely that two administrative positions will need to be filled. In support, Dekon Fashaw, Sr., Police Chief, confirms that Krissinger has been performing the duties of a Police Sergeant since September 10, 2020, but that due to an administrative oversight, the appointing authority failed to timely record this appointment. As such, Chief Fashaw maintains that Krissinger should be awarded a retroactive appointment date and should be admitted to the PM4088C examination based upon his actual time-in-grade as of the closing date. Further, pursuant to *N.J.A.C. 4A:4-2.6(g)(2)*, he argues in support of a reduction of the time-in-grade requirement to completion of the working test period. In this regard, he maintains that there is one current vacancy in the title of Police Lieutenant and two other incumbents in that title will be eligible for retirement during the life of the PM4088C list. As such, it is possible that there will be three vacancies in the title of Police Lieutenant during that timeframe with only two eligibles to fill those three vacancies if Krissinger is not admitted to the subject examination.

The appointing authority submits a letter of support in which it states that that it made an administrative error when it returned the PL200803 certification with the effective date of Krissinger's appointment to the title of Police Sergeant listed as October 19, 2020 and that the proper effective date for Krissinger's appointment to that title was September 10, 2020.

## CONCLUSION

*N.J.A.C. 4A:4-1.10(c)* states, in pertinent part, that an individual may receive a retroactive date of appointment to correct an administrative error, for an administrative delay or for other good cause, on notice to affected parties. Generally, the award of a retroactive appointment date is for seniority purposes only and is limited to situations in which an appellant could have been appointed on the requested retroactive date, but as a result of an administrative error, the appellant received a later appointment date.

*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)* provides that an appointing authority may request that

the time requirements specified in *N.J.A.C.* 4A:4-2.6(a) and (b) 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.

In the instant matter, the record establishes that on September 8, 2020, the appellant's name was certified (PL200803) to the appointing authority from the Police Sergeant (PM0780V), Cape May eligible list and that the appellant was reachable for appointment. The appointing authority has indicated that the appellant was performing the duties of a Police Sergeant as of September 10, 2020 and that it would have permanently appointed the appellant to the title of Police Sergeant, effective as of that date, if it had understood that it would have impaired the appellant's eligibility for the Police Lieutenant (PM4088C), Cape May examination. Therefore, based on the foregoing, ample cause exists to grant Krissinger a retroactive date of appointment to the title of Police Sergeant. As Krissinger has completed his working test period as a Police Sergeant, his permanent appointment should be recorded as September 10, 2020.

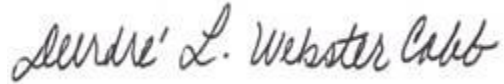
Finally, as Krissinger has been admitted to the subject examination, any request to consider a reduction of the time-in-grade requirement for the PM4088C examination is moot.

### **ORDER**

Therefore, it is ordered that Krissinger's requests be granted and the September 8, 2020 certification of the Police Sergeant (PM00780V), Cape May eligible list be amended to reflect the permanent appointment of Krissinger, effective September 10, 2020. Additionally, it is ordered that Krissinger be admitted to the promotional examination for Police Lieutenant (PM4192C), Cape May and that his examination be scored.

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 23<sup>RD</sup> DAY OF MARCH, 2022



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