



**STATE OF NEW JERSEY**

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

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

CSC Docket No. 2022-812

Request for Reconsideration

**ISSUED: APRIL 11, 2022**

Joziph Soliman requests reconsideration of the attached final decision, rendered on September 22, 2021, which denied the appointing authority’s and Soliman’s requests 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 was administered on October 23, 2021. In its initial request, the appointing authority argued that reduction of the time-in-grade requirement was necessary to ensure that it could expand its superior officer ranks to meet its need for growth, particularly as it had a number of impending and anticipated retirements in the Police Lieutenant rank. Soliman argued that if the Civil Service Commission (Commission) did not grant the waiver, the PM4118C list would be exhausted and the appointing authority would be left with an insufficient number of supervisors based on its table of organization. In its prior decision, the Commission found that the criteria for reduction of the time-in-grade requirement for the PM4118C examination to completion of the working test period pursuant to *N.J.A.C. 4A:4-2.6(g)* were not met, as the record established that there were 21 vacancies in the Police Lieutenant title out of 80 authorized under

Jersey City's table of organization. Moreover, although the appointing authority asserted that it needed to increase the number of Police Lieutenant positions within its ranks and that it had a number of impending and anticipated retirements in that title, the information it provided did not clearly establish that the number of vacancies would exceed the maximum number of eligibles that could result from the subject examination. In that regard, the appointing authority acknowledged that it did not know how many employees would be retiring and the Commission emphasized that it could not base its decision on future contingencies. Similarly, the Commission found that the information Soliman had presented did not establish 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)*.

In his request for reconsideration, Soliman asserts that the Commission relied upon flawed agency records in making its determination. He avers that the Commission found that 69 employees were then serving in the title of Police Lieutenant with the appointing authority based upon the records in the County and Municipal Personnel System (CAMPS). In this regard, he notes that these records show the effective date of his appointment to the title of Police Sergeant as January 28, 2021, when, in actuality, he was promoted to that title on November 24, 2020. Further, he submits a document which lists all Jersey City Police Department personnel serving in the titles of Police Sergeant, Police Lieutenant, Police Captain and Deputy Chief on or about October 1, 2021. He maintains that document shows that Jersey City had 51 Police Lieutenants, meaning that the number of vacancies in the title were 29, rather than the 21 stated by the Commission in its prior decision. He further contends that the Commission relied on an erroneous assertion by the Division of Agency Services (Agency Services), which stated there were 11 vacancies, when it made its prior decision. Soliman also emphasizes that the Commission's determination failed to consider the vacancies that would occur in the Police Lieutenant title as promotions are made. In particular, he notes that 51 of the Police Lieutenants serving at the time of his appeal, 33 were eligible to test for the rank of Police Captain, which had five vacancies. Additionally, at the time of his request for reconsideration, there were 13 incumbents in the title of Police Captain who took the examination for Deputy Chief in September 2021, and that there were 14 vacancies in the rank of Deputy Chief at that time. As such, he maintains that there were really 18 vacancies in the title of Police Captain. He asserts that the filling of those 18 vacancies would create 18 additional vacancies in the title of Police Lieutenant, which, when added to the 29 vacancies in that title as of September 2021, meant that there were a total of 47 near-term vacancies in that title. Consequently, since 47 Police Sergeants would be appointed from the PM4118C eligible list, Soliman argues that there will only be four candidates available for promotion to the title of Police Lieutenant for a majority of the three-year life of the PM4118C list. Soliman also contends that retirements should be considered, using data from earlier periods to predict how many retirements are likely to occur while the PM4118C promotional list remains in effect. In this regard, he submits that 54 supervisors above the rank of

Police Sergeant retired in the three-and-one-half years prior to the instant request. He advises that 68 supervisors in the same supervisory ranks are eligible or will become eligible to retire by 2025 and he observes that even if 25 percent of those eligible for retirement were to retire, it would mean an additional 17 vacancies would open up at or above the rank of Police Lieutenant. Soliman argues that making such a decision based upon forecasted data would be consistent with the Commission's decision in *In the Matter of Deputy Police Chief (PM0511W), Jersey City* (CSC, decided November 21, 2018). As such, he contends that the Commission's assertion in its September 22, 2021 decision that it could not "base its decisions on future contingencies," was not accurate, particularly as the standard in *N.J.A.C. 4A:4-2.6(g)2* is "[i]t appears that vacancies to be filled within the duration of the promotional list will exceed the maximum number of eligibles that could result from the examination." Specifically, because the standard is "appears," the regulation does not require the Commission to conclude with certainty that the number of vacancies to be filled will exceed the maximum number of eligibles." Accordingly, based upon the foregoing, Soliman asserts that reducing the time-in-grade requirement for the PM4118C examination would be consistent with the intent behind *N.J.A.C. 4A:4-2.6*.

Soliman also states that 33 Police Officers were sworn in after graduating the police academy in December 2021 and that 41 new recruits began training at the academy on December 30, 2021. He avers that the appointing authority's increase in personnel demonstrates the veracity of its intent to increase the overall size of its police force. Moreover, he maintains that three Police Captains have submitted retirement applications and 15 additional superior officers reached retirement eligibility between October 1, 2021 and January 21, 2022. He argues that the foregoing information, plus the promulgation of a new Deputy Police Chief eligible list bolsters his contention that relaxation of the time-in-grade requirement is necessary for the PM4118C examination.

Soliman further asserts that the appointing authority's recent personnel actions and public comments from elected officials demonstrate the appointing authority's intention to expand the Jersey City Police Department's ranks and the need to expand the pool of eligibles for the PM4118C examination. He advises that as of March 16, 2022, there were 22 incumbents serving in the title of Deputy Police Chief and the eligible list for that title has been exhausted. He adds that as of March 16, 2022, there were 15 incumbents serving in the title of Police Captain and 20 vacancies that were expected to be filled upon promulgation of the Police Captain (PM3447C) promotional list. Soliman asserts that the advancement of incumbents currently serving in the titles of Police Captain and Police Lieutenant to the titles of Deputy Police Chief and Police Captain, respectively, will create 49 near-term vacancies in the title of Police Lieutenant with only 51 candidates being tested. Soliman presents that because these figures do not account for candidates who may fail the PM4118C examination and vacancies that may arise in the title of Police Lieutenant later in the life of the PM4118C list, the totality of the record

demonstrates a need to relax the time-in-grade requirement to allow for additional eligibles to be admitted to the examination.

## CONCLUSION

*N.J.A.C.* 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding.

Initially, the Commission notes that Soliman did not have standing to make the initial request to reduce the time-in-grade requirement, but is entitled to appeal the Commission's denial of the appointing authority's request to reduce the time-in-grade requirement for the subject examination. In this regard, individuals have standing to appeal any issue wherein their rights were impinged, including appealing that the time-in-grade was not reduced; however they cannot make the initial request to reduce the time-in-grade. *See In the Matter of Peter Corbo, et al.* (CSC, decided September 15, 2012), *aff'd on reconsideration* (CSC, decided December 19, 2012), *aff'd on appeal, In the Matter of Peter Corbo, Sheriff's Officer Captain (PC0989N) and Sheriff's Officer Lieutenant (PC0993N), Essex County, A-2275-12T2* (App. Div. October 20, 2014).

*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.

A review of the record in this matter reveals that reconsideration is not justified. The petitioner cites *In the Matter of Deputy Police Chief (PM0511W), Jersey City, supra*, in support of his arguments. However, the Commission notes that the decision he discusses is actually a different matter cited in that determination. Specifically, in *In the Matter of Jersey City Police Promotional Appointments* (CSC,

decided June 20, 2018), the Commission granted Jersey City's request to amend the eligibility requirements for the promotional examination for Deputy Police Chief (PM0511W) to reduce the time-in-grade requirement to completion of the working test period. The Commission found that the Agency Services had correctly denied Jersey City's initial request to reduce the time-in-grade requirement for the PM0511W examination because the announcement had indicated that it would likely result in an adequate number of candidates for Jersey City to consider for each vacant Deputy Police Chief position and speculation of retirement was not a valid reason to grant such a request. However, the record indicated thereafter that additional Deputy Police Chiefs and Police Captains had filed for retirement, effective January 1, 2018. Further, Jersey City presented to the Commission that, due to its planned restructuring of the Police Department, it anticipated the creation of at least six additional Deputy Police Chief positions to its organizational structure. Conversely, the information that the appointing authority and Soliman presented originally and the information Soliman has presented on reconsideration does not contain that specificity. Namely, the number of Police Lieutenant vacancies the Jersey City Police Department will need to fill in order to meet its anticipated requirements has not been specified, and they have not furnished any information which shows that the number of Police Lieutenant and Police Sergeants who have *in fact* filed for retirement meets the requirements set forth in *N.J.A.C. 4A:4-2.6(g)*. Instead, Soliman has presented the same type of speculation and contingencies that the Commission has consistently held do not meet the requirements for the relaxation of the time-in-grade requirement set forth in *N.J.A.C. 4A:4-2.6(g)*, including in its decision in *In the Matter of Jersey City Police Promotional Appointments, supra*.<sup>1</sup> Accordingly, the petitioner has not met the standard for reconsideration.

### ORDER

Therefore, it is ordered that this request be denied.

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

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<sup>1</sup> Moreover, the Commission cannot ignore the fact that Jersey City has not requested reconsideration. Its failure to do so is its tacit acquiescence and acknowledgment that it accepts the Commission's original determination, as well as implicit evidence that it no longer believes that a reduction of the time-in-grade requirement is necessary.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 6<sup>TH</sup> DAY OF APRIL 2022

*Deirdre L. Webster Cobb*

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