



STATE OF NEW JERSEY

In the Matter of Roberto Negrón,
Department of Human Services

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2022-3148

Administrative Appeal

ISSUED: JULY 5, 2022 (SLK)

Roberto Negrón requests that his salary step be retroactively advanced, and he be retroactively appointed as a Senior Police Officer, Human Services (Senior Police Officer) effective 12 months after his appointment as a Police Officer Recruit, Human Services (Police Officer) on September 15, 2007.

By way of background, personnel records indicate that Negrón was initially hired as a Technical Assistant 3 by the Department of the Treasury (Treasury), effective October 30, 2004. Thereafter, he was provisionally appointed as a Technical Assistant 2, Treasury, effective January 7, 2006, and he was permanently appointed to this title on June 7, 2007. On September 14, 2007, Negrón was transferred to the Department of Human Services (Human Services) and provisionally appointed as a Police Officer pending a qualifying examination. On April 12, 2008, he was regularly appointed as a Police Officer after passing a qualifying examination. On April 25, 2009, he was promoted to Senior Police Officer, and on October 26, 2019, Negrón was promoted to Police Sergeant, Human Services (Police Sergeant).

In his request, Negrón states that he first became aware on December 28, 2016, after his union’s review of seniority, that he was not promoted to Senior Police Officer until 19 months after he was hired as a Police Officer, which was more than seven months after the 12-month probation period for a Police Officer. He asserts that during the Police Officer hiring process, Human Services initially advised him that he could not be hired because he had not completed his working test period as a

Technical Assistant 2. In response, Negron indicates that he requested to be voluntarily demoted to Technical Assistant 3 if that would resolve the issue. However, he presents that he was informed that Human Services was picking him up as a transfer with no break in service, effective September 15, 2007. Therefore, Negron states that he thought that the issue was resolved. Further, he indicates that he was advised at the time of hire as a Police Officer, he would be appointed as a Senior Police Officer after a 12-month probationary period. Negron presents that he completed the Police Academy on February 14, 2008.

Negron argues that when Human Services advised him that there was a complication with his hiring as a Police Officer, he volunteered to be demoted to his prior permanent title of Technical Assistant 3, but his request was ignored. He also notes that he completed all the requirements for a Police Officer within the 12-month probationary period, and he does not have any discipline or negative evaluations as a Police Officer. Negron states that he never received any explanation from Human Services as to why there was a seven-month extension of his probationary period. He contends that this extension impacted his contractual financial step progression and eligibility for promotional opportunities. Negron asserts that when he was promoted to Police Sergeant at salary step 9, he should have been at salary step 10. Therefore, he requests that his personnel record from 2007 to the present be corrected and he receive retroactive pay based on these corrections.

Negron presents the actions that he took to correct this situation included contacting his union on December 28, 2016, which led to the union contacting Human Services on January 3, 2017, but no response was received. Also, he indicates that he contacted Human Services on August 30, 2019, but it was unable to provide him an explanation as to why his probationary period lasted more than 12 months. Additionally, on August 31, 2019, Negron states that he contacted this agency, and he received a response on October 11, 2019, explaining that since he was not permanent in his title when he left Treasury because his working test period was incomplete, he was not found eligible to begin a working test period until April 12, 2008. Further, Negron presents that he contacted his union on October 9, 2019, and it contacted Human Services, with the last message on March 17, 2020, but no resolution was provided. He indicates that on March 30, 2020, he contacted Human Services and was advised that the reason for his probationary period being extended was because he had not completed his working test period as a Technical Assistant 2. Further, Negron again contacted Human Services on March 31, 2020, but received no further response. He states that he filed the subject appeal after being advised to appeal by the Director of Police.

CONCLUSION

N.J.A.C. 4A:4-5.2(a) provides, in pertinent part, that the working test period shall not include any time served by an employee under provisional appointment. The working test period shall begin on the date of regular appointment.

N.J.A.C. 4A:4-5.2(d) provides, in pertinent part, that persons appointed to entry level law enforcement shall serve a 12-month working test period.

N.J.A.C. 4A:4-7.1(a)1 provides, in pertinent part, that a permanent transfer is the movement of permanent employee between organizational units within the same governmental jurisdiction. In State service, an organizational unit shall mean an appointing authority.

N.J.A.C. 4A:4-7.1(b) provides that if the transferred employee is concurrently appointed to a title other than that held on a permanent basis at the time of transfer to accurately reflect new duties, the permanent transfer shall be made in combination with appropriate promotional, lateral title change, or voluntary demotion procures. *See N.J.A.C.* 4A:4-2.4 through 2.7, 7.6 and 7.8, respectively.

N.J.A.C. 4A:4-7.6(c) provides, in pertinent part, that if the nature of the work, education, and experience qualifications of both titles are dissimilar, then the employee shall be appointed pending examination, if the new title is in the competitive division, and satisfactory completion of the working test period.

N.J.A.C. 4A:4-7.9(a) provides that a permanent employee who is appointed from an open competitive list to a title different organization unit within the same governmental jurisdiction shall be considered to have resigned from the previous permanent title.

N.J.A.C. 4A:2-1.1(b) provides that unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed.

Initially, it is noted that Negron's appeal is untimely. The record indicates that he was provisionally appointed as a Police Officer on September 15, 2007, he received a regular appointment in this title on April 12, 2008, and he was promoted to Senior Police Officer on April 25, 2009. It is noted that employees are responsible for knowing their personnel records. However, Negron did not appeal within 20 days of each of these appointments. Regardless, even if his implied explanation that he was improperly advised of his employment history and the appointment process was accepted, he indicates that he first became aware of the situation on December 28, 2016. Still, Negron did not appeal within 20 days of that date. Moreover, even if he is arguing that he was unaware that he needed to appeal at that time, the record

indicates that on October 11, 2019, this agency sent him an email that specifically advised that the only way his personnel record could get changed was “an approved board decision from the CSC.” However, Negron did not appeal within 20 days of that date. Instead, while he indicates that he submitted his appeal, postmarked June 1, 2022, after receiving guidance from the Director of Police, this is well past 20 days from when he knew, or should have known of the decision, situation, or action being appealed. *See N.J.A.C. 4A:2-1.1(b)*.

Regardless, his contentions are without merit. The record does not indicate that Negron was appointed as a Police Officer off an open competitive list. Therefore, at the time of his appointment, he had not passed a competitive examination for Police Officer and his appointment in that title was not a resignation and a new hire under *N.J.A.C. 4A:4-7.9(a)*. Instead, the record indicates that Negron was a Technical Assistant 2, Treasury when he was transferred to Human Services on September 15, 2007. However, since his Technical Assistant duties were dissimilar from Police Officer duties, under *N.J.A.C. 4A:4-7.6(c)*, he could not be permanently appointed as a Police Officer at that time. Instead, Negron was provisionally appointed in that title pending an examination. Therefore, under *N.J.A.C. 4A:4-5.2(a)*, it was not the fact that he had not completed his working test period as a Technical Assistant 2, Treasury that prevented his working test period as a Police Officer from starting. Instead, Negron’s working test period as a Police Officer could not start until he was permanently appointed after an examination. Moreover, if he had been voluntarily demoted to Technical Assistant 3 before his transfer, this would still not change the fact that he needed to pass an examination to begin his working test period as a Police Officer. Further, the record indicates that on April 1, 2008, this agency held a qualifying examination for Negron, where he passed, and he was permanently appointed as a Police Officer, effective April 12, 2008.¹ Therefore, under *N.J.A.C. 4A:4-5.2(d)*, his 12-month working test period began at that time, and upon completion, he was promoted to Senior Police Officer, effective April 25, 2009. Accordingly, there is nothing in the record that indicates that Negron’s personnel record is not in compliance with Civil Service law and rules.

Concerning the approximate seven-month period from Negron’s provisional appointment as a Police Officer to when the qualifying examination was held, there is nothing in the record that provides any information as to why the examination was at that time. However, there is no prescribed time as to when a qualifying examination shall be held under Civil Service law and rules. Additionally, under *N.J.S.A. 11A:4-13(b)*, a provisional appointment shall not exceed 12 months. Therefore, Negron’s qualifying examination and permanent appointment as a Police

¹ This agency conducted a qualifying examination for Negron. After reviewing his education and experience, it determined that he passed the examination for Police Officer. The memorandum from this agency indicating that Negron passed was sent to Human Services and there was no indication that he was copied. Therefore, Negron may have been unaware that a qualifying examination was held, and he had passed.

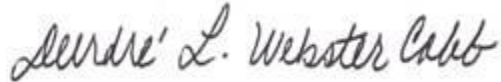
Officer approximately seven months after his provisional appointment was well within this time and there is no basis to retroactively change any personnel records, advance salary steps, or award back pay.

ORDER

Therefore, these requests 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 29TH DAY OF JUNE 2022



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