



*Technician (PS6722H), Ancora Psychiatric Hospital, Department of Health (CSC, decided September 10, 2019).*<sup>1</sup>

On August 5, 2019, prior to the Commission's September 10, 2019 decision, a certification issued from the PS6722H list to the appointing authority for the Camden County location (PS190990) with regular appointments made, effective September 14, 2019. On December 31, 2019, another certification issued from the PS6722H list to the appointing authority for the Camden County location (PS191794). Of the 10 total eligibles certified, nine were appointed, effective February 15, 2020, and one was removed. The eligibles certified held ranks from five to 86. Brizeus's name was not on certification PS191794. On December 8, 2020, yet another certification issued from the PS6722H list to the appointing authority for the Camden County location (PS200829). Two eligibles, including Brizeus, were certified and received regular appointments, effective January 2, 2021. Brizeus's appointment became permanent upon his passing his working test period.

An examination for Senior Human Services Technician (PS8026H), Ancora Psychiatric Hospital, Department of Health, was announced with a closing date of March 21, 2022 and was open to employees in the competitive division who had one year of continuous permanent service as of the closing date in the title of Human Services Technician. Brizeus is among the applicants for the PS8026H examination. As of yet, eligibility determinations have not been completed.

In its request to the Commission, the appointing authority states that on November 18, 2020, it received word that Brizeus should have been on the PS6722H eligible list per the Commission's September 10, 2019 decision. It then called for a certification (PS200829) and regularly appointed Brizeus, effective January 2, 2021. The appointing authority claims that had Brizeus been appointed on September 14, 2019 along with the others who had been appointed from certification PS190990, he would have been eligible for the PS8026H examination. The appointing authority requests that Brizeus receive a retroactive date of permanent appointment, effective September 14, 2019, and be permitted to apply for the PS8026H examination via paper application.

## CONCLUSION

*N.J.A.C.* 4A:4-1.10(c) provides that when a regular appointment has been made, the Commission may order a retroactive appointment date due to administrative error, administrative delay or other good cause, on notice to affected parties.

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<sup>1</sup> The decision was issued September 12, 2019. Brizeus did not seek reconsideration of the decision or appeal it to the Superior Court, Appellate Division.

The appointing authority has expressed its desire to provide Brizeus with a retroactive date of permanent appointment to the title of Human Services Technician, effective September 14, 2019, to match the appointment date provided to the eligibles appointed from the August 5, 2019 certification (PS190990) issued from the PS6722H eligible list. The Commission cannot grant this relief. When the Commission restored Brizeus's name to the list in its September 10, 2019 decision, it did so *for prospective employment opportunities only*. Certification PS190990, from which the September 14, 2019 appointments were made, had *already* been issued. Thus, to grant the September 14, 2019 date would amount to adding Brizeus's name to an already-issued certification and providing *retrospective* relief, relief that the Commission never granted in the September 10, 2019 decision.

Nevertheless, the Commission notes that although its decision restoring Brizeus to the list was issued September 12, 2019, Brizeus's name did not appear on the December 31, 2019 certification for the Camden County location (PS191794) despite Brizeus having chosen Camden County as one of his work location preferences and ranking high enough to appear on it. As such, the Commission finds that it can provide Brizeus with a retroactive date of permanent appointment commensurate with the date provided to the eligibles appointed from certification PS191794, February 15, 2020. In this regard, Brizeus would have been reachable for appointment had his name appeared on the certification as all 10 eligibles who were certified were either appointed or removed. *See N.J.A.C. 4A:4-4.8(a)3*. Further, Brizeus had been serving provisionally in the title of Human Services Technician since 2017, and he passed a working test period. Accordingly, good cause exists to provide Brizeus with a retroactive date of permanent appointment, effective February 15, 2020.

Finally, the Commission need not grant any relief with respect to the Senior Human Services Technician (PS8026H) examination. Brizeus has already applied for the examination, and eligibility determinations have not yet been completed. Further, it must be noted that Brizeus had already received a permanent date of appointment to the title of Human Services Technician, effective January 2, 2021. Thus, even assuming the Commission were not granting any relief in this matter concerning the appointment date, Brizeus *still* would have possessed one year of continuous permanent service in the title of Human Services Technician because the PS8026H examination did not close until *March 21, 2022*.

### **ORDER**

Therefore, it is ordered that the permanent appointment of Garry Brizeus to the title of Human Services Technician, effective February 15, 2020, be recorded.

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 29<sup>TH</sup> DAY OF JUNE 2022

*Deirdre L. Webster Cobb*

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