



STATE OF NEW JERSEY

In the Matter of Juan Laffont, *et al.*,
Police Sergeant (PM0888V), West
New York

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

CSC Docket Nos. 2023-11, *et al.*

Administrative Appeal

ISSUED: September 21, 2022 (JH)

West New York, represented by Angelo Auteri, Esq., requests that the list for Police Sergeant (PM0888V), West New York, be revived in order to effectuate the appointments of Juan Laffont, Jerry Maury and Madelyn Velasquez.

By way of background, the subject list, which contained the names of 48 eligibles, promulgated on May 24, 2018 and expired on May 23, 2022.¹ Maury, Velasquez and Laffont appear at ranks 15, 16 and 17, respectively, on the subject eligible list. Effective January 12, 2022, the fourth and last certification² was issued from the PM0888V eligible list (Certification No. PL220042). In disposing of PL220042, which contained the names of the eligibles who appeared at ranks 9

¹ It is noted that the initial expiration date of the PM0888V list, May 23, 2021, was extended one year. See *N.J.A.C.* 4A:4-3.3(b)1. The subsequent West New York Police Sergeant eligible list, PM4672C, has not promulgated to date.

² Effective January 7, 2019, the first certification was issued from the PM0888V eligible list (Certification No. PL190042). In disposing of PL190042, which contained the names of the first four eligibles, West New York appointed the first and third ranked eligibles effective January 16, 2020. Effective February 7, 2020, the second certification was issued which contained the names of the eligibles appearing at ranks four through eight (Certification No. PL200209). In disposing of PL200209, West New York appointed the fourth through sixth ranked eligibles effective February 19, 2020. Effective June 21, 2021, the third certification was issued, which contained the names of the eligibles appearing at ranks seven through ten (Certification No. PL210601). In disposing of PL210601, West New York appointed the seventh and eighth ranked eligibles effective June 23, 2021.

through 14, West New York appointed the eligibles appearing at ranks 9 through 11 and 14 effective January 12, 2022.

In its request, West New York explains that during 2022, “the Town experienced a series of police officer retirements, resulting in the need for promotions in the positions of Sergeant and Lieutenant. Thus, on April 7, 2022, the Command Staff met to discuss the need for immediate promotions.” On April 20, the Deputy Police Chief met with the Town Business Administrator “to discuss the need for promotions and the request for a certification” and subsequently, the Town performed an analysis of the financial impact of the promotions prior to proceeding with the certification of the list.” West New York indicates that on May 12, 2022, the Deputy Police Chief met with the Mayor and Business Administrator “to obtain approvals and confirm that the next three police officers[, *i.e.*, Maury, Velasquez and Laffont,] on the [PM0888V] list would be promoted.” West New York also indicates that these officers “were made aware of the decision to appoint them as Sergeants in order to fulfill departmental needs resulting from recent retirements.” On June 17, 2022, West New York requested certifications from the subject list and Police Lieutenant list but it was informed that the PM0888V list had expired and the new Sergeant list had not been promulgated. West New York notes that Maury, Velasquez and Laffont “are currently undergoing training to assume the duties which would normally be performed by Sergeants due to the need created by the recent retirements in the Police Department.” West New York presents that “this failure to request a certification prior to the expiration of the list resulted from administrative error, as the directive to request certification of the list was issued to Police Department staff prior to the expiration of the list but was inadvertently not accomplished . . . [T]he Town respectfully requests that the list be revived to the extent necessary to effect the three promotional appointments, retroactive to the date of list expiration.” In support of its request, West New York submits a certification from Alejandro DeRojas, Deputy Chief, Town of West New York.

CONCLUSION

N.J.S.A. 11A:4-6 and *N.J.A.C.* 4A:4-3.4 provide that an expired eligible list may be revived under the following circumstances: 1. To implement a court order, in a suit filed prior to the expiration of the list; 2. To implement an order of the Civil Service Commission in an appeal or proceeding instituted during the life of the list; 3. To correct an administrative error; 4. To effect the appointment of an eligible whose working test period was terminated by a layoff; or 5. For other good cause. *See N.J.S.A.* 11:4-6.

In the instant matter, the appointing authority indicates that due to a series of retirements, *bona fide* vacancies existed for the Police Sergeant title. As a result, it intended to promote Maury, Velasquez and Laffont to Police Sergeant prior to the May 23, 2022 expiration date of the PM0888V list. *See In the Matter of William J.*

Brennan and Fire Lieutenant (PM1201T) and Fire Captain (PM1191T), Township of Teaneck (MSB, decided April 9, 2003). However, due to administrative error, a request for certification of the PM0888V list was not submitted prior to the May 23, 2022 expiration date. Nevertheless, had the appointing authority requested a certification at that time, Maury, Velasquez and Laffont would have been listed in the first, second and third positions on the certification, respectively, and reachable for appointment. Under these circumstances, good cause has been presented to revive the Police Sergeant (PM0888V), West New York list to permit the issuance of a single certification from the list in order to effectuate the regular appointments of Maury, Velasquez and Laffont.

With respect to West New York's request that Laffont, Maury and Velasquez be granted retroactive appointment dates of May 23, 2022, *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. Generally, this unique remedy has been reserved for two particular situations. First, the Commission has granted retroactive permanent appointment dates in circumstances in which an employee was actually serving in and performing the duties of a title, but due to some error or other good cause, his attainment of permanent status was delayed or hindered. The second situation in which an employee may be awarded a retroactive date of permanent appointment is where the name of an employee, whose appointment would have otherwise been mandated, was improperly removed from or bypassed on an eligible list, thereby preventing their appointment. As noted above, while West New York indicates that Maury, Velasquez and Laffont are "undergoing training to assume [Police Sergeant] duties," they were not actually performing Police Sergeant duties as of May 23, 2022. In addition, a review of the email sent on June 17, 2022 from West New York to the Certification Unit requesting certification of the PM0888V list indicates that "the officers are anticipated to be promoted on Monday June 27th." However, during the appeal process, West New York was contacted regarding this matter and indicated that to date, Maury, Velasquez and Laffont have not assumed the duties of a Police Sergeant. As such, retroactive appointment dates would not be appropriate under these circumstances. Accordingly, their appointment dates should be recorded as of the date that they actually begin to perform Police Sergeant duties.

ORDER

Therefore, it is ordered that this request be granted and the Police Sergeant (PM0888V), West New York eligible list be revived in order to permit the issuance of a single certification from the list in order to effectuate the permanent appointments of Laffont, Maury and Velasquez to the Police Sergeant title.

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 21ST DAY OF SEPTEMBER, 2022

Dolores Gorczyca

Dolores Gorczyca
Presiding Member
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

c: Angelo Auteri, Esq.
Juan Laffont (2023-11)
Jerry Maury (2023-12)
Madelyn Velasquez (2023-13)
Agency Services
Records Center