



**STATE OF NEW JERSEY**

In the Matter of Abdelbasset Jibbou,  
Police Sergeant (PM2519W), Ewing

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

CSC Docket No. 2023-1122

Examination Appeal

**ISSUED:** May 24, 2023

Abdelbasset Jibbou requests that the eligible list for Police Sergeant (PM2519W), Ewing, be revived so that his name may be certified to the appointing authority.

By way of background, the PM2519W examination was announced on October 1, 2018 with a closing date of January 31, 2019, and was administered on February 23, 2019.<sup>1</sup> The petitioner, a disabled veteran, applied for the PM2519W examination but he was subsequently called for active military duty from February 18, 2019 through April 30, 2019. As a result, he was unable to sit for the subject test. The petitioner requested and was granted a make-up examination.<sup>2</sup> It is noted that in *In the Matter of Police Sergeant (PM377611), City of Paterson*, 176 N.J. 49 (2003), the New Jersey Supreme Court ordered the Civil Service Commission (Commission) for future exams, to “administer make-up exams that contain substantially different or entirely different questions from those used in the original examination.” *Id.* at 66. As a result, public safety candidates are given a make-up exam when the next regularly scheduled exam for their particular title is

<sup>1</sup> The resultant eligible list for PM2519W was promulgated on November 21, 2019, and expired on November 20, 2022.

<sup>2</sup> A review of the record finds that the petitioner submitted a copy of his military orders with his make-up request. However, the petitioner’s available employment record does not reflect this period of leave.

administered. In this regard, beginning in April 2020, as indicated in the Law Enforcement Status Report, which was available on the Commission's website, due to the Covid pandemic, "all New Jersey Civil Service examinations have been postponed until further notice." Subsequently, as indicated in the 2021 Police Promotional Schedule (Examination Information Alert), which was published on the Commission's website in February 2021, the next announcement for Police Sergeant would be issued on October 1, 2021, and the examination was tentatively scheduled to be administered in February 2022.<sup>3</sup> It is further noted that an announcement for Police Sergeant (PM4544C), Ewing was issued on October 1, 2021. The petitioner applied for and was admitted to the PM4544C exam which was administered on February 26, 2022. As such, this examination also served as a make-up for PM2519W. By a scoring notice dated November 16, 2022, the petitioner was informed of his final average (88.280) and rank (14) for the PM4544C examination.<sup>4</sup> By separate notice, the petitioner was provided with his final average for PM2519W (87.790) which placed him at rank A12 (just above rank 12).<sup>5</sup>

The petitioner presents that "on 11/1/2022, I received a letter from [C]ivil [S]ervice advising that my makeup exam score was 87. The Ewing Police Department has promoted officers to Sergeant at a test score of 86. Now, it is clear that if I had taken the original [C]ivil [S]ervice test in 2019, I would have been promoted to the rank of Sergeant. Under 20 CFR §1002.193,<sup>6</sup> a military member cannot be passed for promotion due to their military service."

## CONCLUSION

*N.J.A.C.* 4A:4-3.4 provides that the Civil Service Commission may revive an expired eligible list 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 also*, *N.J.S.A.* 11A:4-6.

It is noted that five certifications were issued from the resultant PM2519W eligible list. In this regard, on May 13, 2022, the fourth certification was issued (Certification No. PL220717) which contained the names of the eligibles appearing

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<sup>3</sup> This information was also available in the Law Enforcement Status Report (February 2021).

<sup>4</sup> The PM4544C list promulgated on November 24, 2022 and is set to expire on November 23, 2025.

<sup>5</sup> As noted in both the 2018-2019 and 2022 Police Sergeant Orientation Guide "the make-up exam will measure, in equal proportion, the same knowledge and/or abilities that were measured by the original exam. It will also be administered and scored in the same manner as the original exam."

<sup>6</sup> *See also* Uniformed Services Employment and Reemployment Rights Act of 1994, 38 *U.S.C.A.* §4301, *et seq.* (USERRA).

at ranks 2 and 6 through 11. In disposing of PL220717, the appointing authority appointed the eligibles appearing at ranks 8 and 11 effective May 30, 2022.<sup>7</sup> On June 3, 2022, the fifth, and last certification, was issued from the PM2519W list (Certification No. PL220807) which contained the names of the eligibles appearing at ranks 2 and 12 through 16. In disposing of PL220807, the appointing authority appointed the eligible appearing at rank 12 effective June 13, 2022.

Given that the petitioner would have been reachable for appointment, it is appropriate, based on equitable considerations, to revive the Police Sergeant (PM2519W), Ewing, eligible list, and certify the petitioner's name at the time of the next certification for the title. It must be emphasized that the petitioner does not possess a vested property interest in a position. The only interest that results from placement on an eligible list is that the candidate will be considered for an applicable position so long as the eligible list remains in force. *See Nunan v. Department of Personnel*, 244 N.J. Super. 494 (App. Div. 1990). In this regard, USERRA does not require that the petitioner receive a permanent appointment to the Police Sergeant title. *See In the Matter of John Fasanella*, Docket No. A-4455-07T1 (App. Div. December 5, 2009) (USERRA is not designed to expand an appellant's employment rights on return from active military service, but only to preserve those rights he or she possessed at the time his or her active military service began, as well as those that would accrue during his or her absence).

### ORDER

Therefore, it is ordered that this request be granted and the Police Sergeant (PM2519W), Ewing, eligible list be revived in order for the petitioner's name to be certified at the time of the next certification for Police Sergeant for prospective employment opportunities only. Should the petitioner receive a permanent appointment to the subject title and successfully complete a working test period, he or the appointing authority may petition the Commission at that time for any additional relief including a retroactive appointment date for seniority purposes. It is further ordered that Agency Services, in conjunction with the appointing authority, review the petitioner's employment record and record his active military duty from February 18, 2019 through April 30, 2019, and make any other necessary corrections.

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

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<sup>7</sup> It is noted that the eligibles appearing at ranks 6, 9 and 10 had been appointed from another certification and as a result, their names were removed.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 24<sup>TH</sup> DAY OF MAY, 2023

*Allison Chris Myers*

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Acting Chairperson  
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