



STATE OF NEW JERSEY

In the Matter of Anthony Gandolfo,
Police Officer (M0047D), Freehold
Township

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

CSC Docket No. 2023-1608

List Removal Appeal

ISSUED: June 28, 2023 (HS)

Anthony Gandolfo appeals the removal of his name from the eligible list for Police Officer (M0047D), Freehold Township on the basis of falsification of the preemployment application.

The appellant, a non-veteran, took and passed the open competitive examination for Police Officer (M0047D), which had a closing date of February 28, 2022. The resulting eligible list promulgated on November 10, 2022 and expires on November 9, 2023. The appellant’s name was certified to the appointing authority on November 29, 2022 (OL221457). In disposing of the certification, the appointing authority requested the removal of the appellant’s name on the basis of falsification of the preemployment application. Specifically, the “Employment History” section called for the appellant to “[l]ist all of your employment history, including part-time. Begin with current employer first. Include all periods of unemployment, internships, and volunteer positions.” The appellant listed Freehold Emergency Medical Services (Freehold EMS) as an “Employer” and noted it was a volunteer position. The appellant answered the following question in the negative: “Have you ever been discharged/terminated/fired or disciplined by any employer?” However, documentation indicated that the appellant had what Freehold EMS deemed to be a disciplinary record. In this regard, the appellant was issued a verbal warning (March 3, 2022); a warning (June 26, 2022); an “[o]ccurrence for tracking” (August 31, 2022); extra duty (September 2, 2022); and “[t]racking for future occurrences” (twice on November 15, 2022). All actions were labeled “[d]iscipline” in Freehold EMS’s documentation.

On appeal to the Civil Service Commission (Commission), the appellant indicates that, prior to filing this appeal, he had contacted the appointing authority to learn what in his application he had falsified but was told that the information could not be divulged.

In response, the appointing authority provides the supporting documentation for the removal of the appellant's name, as described above.

In reply, the appellant offers the following explanation for his answer on the application question at issue. Merriam-Webster defines "employer" as "one that employs or makes use of something or somebody, *especially* a person or company that provides a job paying wages or a salary to one or more people." The appellant did not understand Freehold EMS to be an employer based on this definition since his duties there are performed in a strictly volunteer capacity for no monetary compensation.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an eligible's name from an eligible list when he has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

In this case, the appointing authority maintains that the appellant did not disclose on his preemployment application his disciplinary record with Freehold EMS. Although the appellant maintains that he was justified in answering the question "Have you ever been discharged/terminated/fired or disciplined by any employer?" in the negative based on a dictionary definition of "employer" and his holding of a volunteer position with Freehold EMS, the application clearly contemplated that entities with which the candidate holds a volunteer position are employers as it instructed candidates to "[l]ist all of your *employment* history" and "[i]nclude all . . . *volunteer* positions" (emphases added). The appellant's citation to a dictionary definition of "employer" is unpersuasive on its own terms. In this regard, the appellant focuses only on the narrower sense of the word ("a person or company that provides a job paying wages or a salary to one or more people") while ignoring the more capacious sense ("one that employs or makes use of something or somebody"). As such, the Commission cannot credit the appellant's argument. Upon review of the record then, it is clear that the appellant did not disclose on his preemployment application what Freehold EMS considered a disciplinary record. It must be emphasized that it is incumbent upon an applicant, particularly an applicant for a sensitive position such as a Police Officer, to ensure that his preemployment application is a complete and accurate depiction of his history. In this regard, the

Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his peril. See *In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

The appellant's omission in this case is sufficient cause to remove his name from the eligible list. The type of omission presented is clearly significant and cannot be condoned as such information is crucial in an appointing authority's assessment of a candidate's suitability for the position. Indeed, an appointing authority's assessment of a prospective employee could be influenced by such information, especially for a position in law enforcement. Therefore, the information noted above, which the appellant failed to disclose, is considered material and should have been accurately indicated on his application. The appellant's failure to disclose the information is indicative of his questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Police Officer. In this regard, the Commission notes that a Police Officer is a law enforcement employee who must enforce and promote adherence to the law. Municipal Police Officers hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and the image of utmost confidence and trust. See *Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), cert. denied, 47 N.J. 80 (1966). See also *In re Phillips*, 117 N.J. 567 (1990). The public expects municipal Police Officers to present a personal background that exhibits respect for the law and rules. Accordingly, there is a sufficient basis to remove the appellant's name from the subject eligible list.

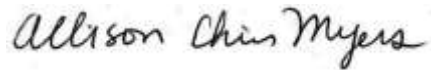
The Commission adds the following comments. The appellant has indicated that prior to instituting this appeal, he had approached the appointing authority to learn what in his application he had falsified but was told that the information could not be divulged. The appointing authority is reminded that it is obligated to provide an eligible with a copy of all documents and arguments upon which it based its request to remove the eligible's name from the eligible list when it disposed of the certification upon request of the eligible or upon the eligible's appeal. See *N.J.A.C. 4A:4-4.7(b)*.

ORDER

Therefore, it is ordered that this appeal 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 28TH DAY OF JUNE, 2023



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