



STATE OF NEW JERSEY

In the Matter of Stefan Engers,
Police Sergeant (PM4672C), West
New York

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

CSC Docket No. 2023-1006

Examination Appeal

ISSUED: June 28, 2023 (JH)

Stefan Engers, represented by Kevin McGovern, Esq., appeals the calculation of his seniority score and final average for the promotional examination for Police Sergeant (PM4672C), West New York.

By way of background, the subject two-part examination, which was administered on February 26, 2022, consisted of a video-based portion and a multiple-choice portion. The test was worth 80 percent of the final average and seniority was worth the remaining 20 percent. As noted in the 2022 Police Sergeant Orientation Guide (Orientation Guide), which was available on the Civil Service Commission’s (Commission) website, seniority consists of two weighted parts. The first is length of service which is based on the time from the regular appointment date (to the eligible title, *i.e.*, Police Officer) to the closing date of the announcement, December 31, 2021, minus the time spent on suspensions, layoffs, and deductible leaves of absence without pay.¹ As further indicated in the Orientation Guide, candidates “start with a base score of 70.000 and then one point is added for each year of eligible service up to a maximum of 15. The maximum possible seniority score is 85.000.” The second component, record of service, adds a maximum of ten points to the seniority score. The ten points are reduced by disciplinary suspensions up to five years from the closing date. A review of the appellant’s available employment record² finds that the appellant received received a regular appointment to the Police Officer title in

¹ See *N.J.A.C.* 4A:4-2.16.

² As recorded in the County and Municipal Personnel System (CAMPS).

Newark effective December 26, 2007; was laid off effective November 30, 2010; and was subsequently appointed as a Police Officer in West New York effective May 3, 2011, pursuant to *N.J.S.A. 40A:14-180*, known as the “Rice Bill.” Accordingly, his seniority was calculated from his appointment date in West New York, May 3, 2011. *See N.J.S.A. 40A:14-180d.*³

On appeal, the appellant argues that his seniority score “is miscalculated.” In this regard, he indicates, as noted above, that he was hired as a Police Officer in Newark effective December 26, 2007 and was laid off on November 30, 2010. Subsequently, in May 2011, he was hired as a Police Officer, via the Rice Bill, in West New York. He argues that he “should have received a seniority score of 93.xxx. The formula should have been calculated by the Civil Service Commission as follows: 70 Base Points, plus 13 points for his years of service, plus an additional 10 points for having no disciplinary record. However, the Civil Service Commission incorrectly calculated Mr. Engers['] years of service as 10 years, providing him with only 10 points.” Specifically, he refers to *N.J.A.C. 4A:4-2.15(f)*⁴ and argues that he was “reappointed from a special reemployment list, the RICE Bill. Thus, Mr. Engers’ aggregate time spent with the Newark Police Department and the West New York Police department should have been calculated as 13 years . . .” In support of his appeal, the appellant provides additional documentation including a copy of his Notification of Eligibility dated October 19, 2022 which indicates his seniority score (90.671) and final average (89.790).

By letter dated February 2, 2023, Division of Appeals and Regulatory Affairs (DARA) staff informed the appellant, in part, that he “was not appointed from a special reemployment list⁵ but rather, as noted above, he was appointed pursuant to *N.J.S.A. 40A:14-180*. In this regard, *N.J.S.A. 40A:14-180d* provides that the seniority, seniority-related privileges and rank a law enforcement officer possessed shall not be transferable to a new position when the officer is appointed pursuant to

³ *N.J.S.A. 40A:14-180d* provides that the seniority, seniority-related privileges and rank a law enforcement officer possessed shall not be transferable to a new position when the officer is appointed pursuant to the provisions of the program.

⁴ *N.J.A.C. 4A:4-2.15* (Rating of examinations) provides, in pertinent part, that “employees reappointed from a special reemployment list shall be considered as having continuous service for seniority purposes. However, the elapsed time between the layoff or demotion in lieu of layoff and reappointment shall be deducted from the employee’s seniority.” *N.J.A.C. 4A:4-2.15(f)*.

⁵ In a footnote, the letter further explained that “a special reemployment right means the right of a permanent employee, based on his or her permanent title at the time of layoff action, to be certified for reappointment after the layoff action to the same, lateral and lower related titles. *See N.J.A.C. 4A:8-2.1(c)*. A special reemployment list from one jurisdiction shall not be certified to another jurisdiction. *See N.J.A.C. 4A:8-2.1(c)1*. In other words, in local service, the employee has special reemployment rights **only** in the jurisdiction where the layoff occurred.”

the provisions of the program. Accordingly, Mr. Engers' seniority for the subject exam was correctly calculated from his appointment as a Police Officer in West New York on May 3, 2011."

In a response dated March 2, 2023,⁶ the appellant maintains:

Mr. Engers was not appointed from *N.J.S.A.* 40A:14-180. Mr. Engers was hired as a [P]olice [O]fficer by the Newark Police Department on December 26, 2007, and laid off on November 30, 2010. When Mr. Engers was laid off, he was placed on the Rice Bill which was introduced [on] September 20, 2010 [footnote omitted]. This firm and Mr. Engers requested Mr. Engers' hiring portfolio, which indicates Mr. Engers was placed on the Rice Bill when he was laid off, but the Township of West New York has been less than forthcoming. That '[B]ill establish[ed] a special reemployment list' (See Senate Bill No. 2274, p.2). Notwithstanding, in May 2011, Mr. Engers resumed his employment as a [P]olice [O]fficer with the West New York Police Department when he was hired off the Rice Bill, a special reemployment list. Same is evidenced by the New Jersey Civil Service Commission's CAMPS database which expressly states that Mr. Engers was hired off the Rice Bill [footnote omitted]. To date, Mr. Engers has been steadily employed with the West New York Police Department.

The appellant argues that the reference to *N.J.A.C.* 4A:8-2.1(c), as indicated in a footnote in the February 2, 2023 letter, "is of no moment. This regulation solely pertains to a Civil Service employee[s] layoff rights. This regulation, however, does not relate to an employee[s] seniority rights which is what Mr. Engers' **seniority scoring appeal** exclusively concerns." In support of his appeal, the appellant provides additional documentation including a copy of Senate Bill No. 2274 (2010).

CONCLUSION

At the outset, it is noted that the "Rice Bill" was first introduced on May 9, 1991 by then Senator Ronald L. Rice.⁷ See Senate Bill No. 3448 (1991). The statement that accompanied Senate Bill No. 3448 (1991) indicates that it "would permit a county or municipality in which Title 11A (Civil Service) of the New Jersey statutes is operative to hire a law enforcement officer who, for reasons of economy,

⁶ It is noted that the appellant erroneously captioned his response as a request for reconsideration pursuant to *N.J.A.C.* 4A:2-1.6. However, the February 2, 2023 letter was not a determination rendered by the Commission but rather, as indicated above, a letter from DARA staff.

⁷ Thus, the appellant's claim that the "Rice Bill . . . was introduced [on] September 20, 2010" is erroneous. It is noted that Senate Bill No. 2274 (2010) was intended to supplement the existing law (P.L. 1991, c. 299 (C. 40A:14-180)). This bill is discussed below.

has been laid off by a county or municipal law enforcement department or agency to be employed by another county or municipality . . . The bill would permit a county or municipality to hire a fully trained and experienced officer who may be assigned immediately to perform law enforcement duties, thereby saving the time and cost involved in providing such an individual with the required law enforcement training.” Thus, while the “Rice Bill” provides certain laid-off law enforcement officers with opportunity to be hired by a different jurisdiction, it does not establish a “special reemployment list,” as defined by Civil Service rules and regulations.⁸ In this regard, as noted by the Senate County and Municipal Government Committee Statement to Senate Bill No. 3448 (June 10, 1991), “the committee amended the bill to provide that a county or municipality *which has adopted Title 11A* may not employ a person as provided in section one a of the bill *if a special reemployment list is in existence* for the law enforcement title to be filled” (emphasis added). See *N.J.S.A.* 40A:14-180b(3). Subsequently, effective October 23, 1991, the “Rice Bill” was enacted as *N.J.S.A.* 40A:14-180. Furthermore, it is noted that the statutory provision (*N.J.S.A.* 40A:14-180) and its popular name (“Rice Bill”) are used interchangeably.⁹ Thus, the appellant’s claim that he was not appointed pursuant to *N.J.S.A.* 40A:14-180 as a Police Officer in West New York is erroneous.

With regard to Senate Bill No. 2274 (2010), the Commission is perplexed by the appellant’s reliance on a selective reading of a statement accompanying a bill that was introduced in September 2010 but did not progress beyond committee referral.¹⁰ In this regard, as noted in the statement to Senate Bill No. 2274 (2010), the bill was designed to “establish a special reemployment list which would permit *cities of the first class* to **reappoint** certain **nonpermanent** police officers who were laid off for reasons of economy” (emphasis added). Accordingly, this bill has no applicability in the present matter given that the appellant was a **permanent** Police Officer in Newark when he was laid off on November 30, 2010 and he sought employment in a

⁸ See e.g., *N.J.A.C.* 4A:8-2.1(c) and *N.J.A.C.* 4A:8-2.3.

⁹ As indicated by the Cornell Law School Legal Information Institute, “TOPN: Table of Popular Names,” under the section, “What’s in a popular name?”: “Laws acquire popular names as they make their way through Congress. Sometimes these names say something about the substance of the law (as with the ‘2002 Winter Olympic Commemorative Coin Act’). Sometimes they are a way of recognizing or honoring the sponsor or creator of a particular law (as with the ‘Taft-Hartley Act’).” See <https://www.law.cornell.edu/topn/0>. See also <https://www.aallnet.org/wp-content/uploads/2018/01/Vol-105-no-1-2013-1.pdf>. In this regard, given that the bill that would subsequently be enacted as *N.J.S.A.* 40A:14-180 was first introduced by Senator Rice, see Senate Bill No. 3448 (1991), *supra*, *N.J.S.A.* 40A:14-180 is also known as the “Rice Bill.”

¹⁰ On September 20, 2010, Senate Bill No. 2274 was introduced in the Senate and referred to the Senate Community and Urban Affairs Committee. See <https://www.njleg.state.nj.us/bill-search/2010/S2274>. However, this bill did not proceed any further.

different jurisdiction (West New York).¹¹ Rather the appellant's circumstances are directly addressed and governed by *N.J.S.A.* 40A:14-180.

As noted previously, *N.J.S.A.* 40A:14-180d provides that the **seniority**, seniority-related privileges and rank a law enforcement officer possessed shall **not** be transferable to a new position when the officer is appointed pursuant to the provisions of the program. Thus, the Rice Bill **explicitly** does not permit an employee to carry over (or aggregate) his seniority from one jurisdiction to another. Thus, the appellant's seniority for the subject exam was correctly calculated from his appointment as a Police Officer in West New York on May 3, 2011. Accordingly, the appellant has failed to meet his burden of proof in this matter.

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

¹¹ It is noted that Senate Bill No. **1800** (2010) (*see also*, Assembly Bill No. 207 (2010)) was amended to include a similar provision which "establishes a special reemployment list which would permit municipalities to reappoint certain nonpermanent police officers who were laid off for reasons of economy." Subsequently, effective December 9, 2010, it was enacted as *N.J.S.A.* 40A:14-180.1. In this regard, *N.J.S.A.* 40A:14-180.1 provides, in pertinent part:

- a. The provisions of any other law to the contrary notwithstanding, the appointing authority of a municipality which, pursuant to N.J.S. 40A:14-118, has established and maintains a police force may reappoint as a member or officer of its municipal police department or force any person who:
 - (1) did not hold a permanent appointment, but was serving as a probationary officer or as an officer in a field working test period, as prescribed by the Police Training Commission, in the police department or force of that municipality;
 - (2) was, for reasons of economy, terminated as a law enforcement officer within 60 months prior to the reappointment; and
 - (3) was, at the time of termination, in good standing.

Again, this provision has no bearing in the present matter given that the appellant was a **permanent** Police Officer who sought employment in a **different jurisdiction**.

CIVIL SERVICE COMMISSION ON
THE 28TH DAY OF JUNE, 2023

Allison Chris Myers

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