



STATE OF NEW JERSEY

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

In the Matter of Carolyn Whitehead,
East Orange

CSC Docket No. 2026-1000

Request for Reconsideration

ISSUED: April 8, 2026 (EG)

East Orange, represented by Sean M. Pena, Esq., requests reconsideration of the decision of the Civil Service Commission (Commission) in *In the Matter of Carolyn Whitehead* (CSC, decided September 24, 2025).

As background, Whitehead, an Assistant Zoning Officer, was removed and resigned not in good standing effective July 23, 2020. Whitehead appealed to the Commission and the matter was transmitted to the Office of Administrative Law for a hearing before an Administrative Law Judge (ALJ). The ALJ found that Whitehead testified credibly and that the charges against her could not be upheld. The Commission accepted and adopted the ALJ’s Findings of Fact and Conclusions and his recommendation to reverse the removal. The Commission ordered that Whitehead be reinstated, receive mitigated back pay, benefits, and seniority. *See In the Matter of Carolyn Whitehead, East Orange, Department of Policy, Planning and Development* (CSC, decided February 28, 2024). Thereafter, East Orange filed a request for stay of the Commission’s decision while Whitehead filed a request for enforcement of the decision. The Commission found that East Orange reiterated its prior contentions raised in its exceptions filed after the ALJ’s decision. East Orange’s exceptions had been found to be unpersuasive. The Commission could not find a reason to question the ALJ’s credibility determinations or the findings and conclusions made therefrom. Therefore, the Commission determined that East Orange failed to present a clear likelihood of success on the merits of its appeal and

rejected its claim that it would suffer irreparable harm if its request for a stay were not granted. The Commission denied East Orange's request for a stay and ordered that Whitehead immediately be reinstated. See *In the Matter of Carolyn Whitehead* (CSC, decided September 4, 2024). Thereafter, Whitehead requested enforcement of the prior decisions which resulted in East Orange being fined \$10,000 and being ordered to immediately reinstate Whitehead. See *In the Matter of Carolyn Whitehead* (CSC, decided September 24, 2025). East Orange requests reconsideration of that decision.

In its request, East Orange argues that it made substantial and good faith efforts to comply with the Commission's September 4, 2024, decision, *Whitehead, supra*, while simultaneously exercising its right to seek appellate and judicial review. It claims it had initially provided a return to work date of September 16, 2024, which was later adjusted to October 4, 2024.¹ Additionally, it sought to compel Whitehead to engage in negotiations concerning back pay so that all outstanding issues could be resolved, and a final appeal perfected. It contends that its actions were consistent with *N.J.A.C.* 4A:2-2.10(f) and (g) which contemplate that the issues of reinstatement and back pay be addressed together.

Further, East Orange argues that in *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. Feb. 26, 2003), the court acknowledged that a return to work was not necessary prior to a resolution of back pay. Moreover, it maintains that it was entitled to seek judicial relief under *R.* 2:9-7, which allows an agency decision to be stayed pending appellate review. In addition, it asserts that its attempts to comply with the Commission's decision within the constraints of the ongoing back pay dispute constitute good cause as a matter of law. East Orange contends that there is no evidence in the record of a willful disobedience or disregard of the Commission's authority or order to reinstate Whitehead. Further, it claims that the imposition of the maximum fine of \$10,000 is punitive rather than remedial and therefore exceeds the Commission's discretion. It maintains that the fine imposed by the Commission is not supported by credible evidence in the record and constitutes an arbitrary, capricious or unreasonable action.

Additionally, East Orange argues that the record demonstrates that it acted in good faith, made consistent efforts to comply with the Commission's directives, and pursued legitimate judicial remedies under established law. Finally, it contends that it filed an application for emergent relief on December 2, 2024, which remains pending before the Commission.

¹ In the matter that was before the Commission regarding back pay, *In the Matter of Carolyn Whitehead* (CSC, decided April 8, 2026), Whitehead stated that she was returned to work on September 29, 2025. It is noted that the County and Municipal Personnel System (CAMPS) does not reflect Whitehead's reinstatement. East Orange is directed to ensure that Whitehead's CAMPS' record is updated and accurate.

In response, Whitehead argues that East Orange's request for reconsideration contains no new evidence or additional information and does not show any material error in the Commission's decision. In addition, she asserts that she informed East Orange many times that the Commission's decision explicitly stated that "under no circumstances should the appellant's reinstatement be delayed pending resolution of any potential back pay dispute." In this regard, she contends that at that time it refused to reinstate her.

CONCLUSION

N.J.A.C. 4A:2-1.6(b) sets forth the standards by which a prior decision may be reconsidered. This rule provides that a party must show that a clear material error has occurred, or present new evidence or additional information not presented at the original proceeding which would change the outcome of the case and the reasons that such evidence was not presented at the original proceeding. A review of the record reveals that reconsideration is not justified.

Initially, the Commission notes that East Orange's contention that there is an emergent relief case still pending a Commission decision is incorrect. East Orange's request was never perfected as it failed to pay the appeal fee. Subsequently, the request was refiled, addressed and decided upon in *In the Matter of Carolyn Whitehead* (CSC, decided September 4, 2024).

In the present matter, East Orange contends that it acted in good faith, made consistent efforts to comply with the Commission's directives, and pursued legitimate judicial remedies under established law. The Commission disagrees. In its September 4, 2024 decision, *Whitehead, supra*, the Commission ordered that East Orange immediately reinstate Whitehead with mitigated back pay, benefits and seniority, and warned that failure to do so within 30 days would result in fines of \$100 per day up to the maximum of \$10,000. Although East Orange may have made efforts to settle the back pay, it did not reinstate Whitehead as ordered. Moreover, while East Orange contends that *N.J.A.C.* 4A:2-2.10(f) and (g) contemplate that the issues of reinstatement and back pay be addressed together, that is not the case. *N.J.A.C.* 4A:2-2.10(f) states that when the Commission awards back pay and benefits, determination of the actual amounts shall be settled by the parties whenever possible. *N.J.A.C.* 4A:2-2.10(g) provides, in part, that if settlement on an amount cannot be reached, either party may request, in writing, Commission review of the outstanding issue. These regulations do not address reinstatement as an issue to be debated as opposed to back pay where the amounts owed can be argued. Reinstatement was directly ordered by the Commission leaving no question of whether Whitehead should or should not be returned to work. Further, with regard to East Orange's reliance on its interpretation that the court in *Phillips, supra*, acknowledged that a return to work was not necessary prior to a resolution of back pay, the Commission finds this reliance misplaced. The court indicated that

reinstatement should not ordinarily be delayed by back pay or counsel fee disputes. East Orange has not provided a compelling reason as to why Whitehead's reinstatement could not be effectuated when ordered by the Commission. The mere fact that it intended to appeal the reinstatement to the Superior Court of New Jersey, Appellate Division, is not a sufficient reason to delay Whitehead's reinstatement. *See e.g., In the Matter of Christopher D'Amico* (CSC, decided August 14, 2019) (Commission denied the appointing authority's request for a stay pending its appeal to the Appellate Division where the Commission previously ordered that the appellant be reinstated and awarded mitigated back pay and counsel fees).

Further, regarding the fine levied against East Orange, the Commission derives the power to assess such fines pursuant to *N.J.S.A. 11A:10-3*. *See also N.J.A.C. 4A:10-2.1* (if a violation or noncompliance is found, the Commission may assess costs, charges, and fines not to exceed \$ 10,000). In the present matter, the Commission provided ample warning to East Orange that it would only impose the fine where it had not made a good faith effort to comply with the Commission's order. In its September 24, 2025 decision, *Whitehead, supra*, the Commission found that it was clear that East Orange had not made a good faith effort to reinstate Whitehead and noted that East Orange had not provided a persuasive explanation for its refusal to reinstate Whitehead. Similarly, in the present appeal, East Orange has not provided any persuasive arguments for not having reinstated Whitehead when ordered. As such, East Orange was not in compliance with the Commission's order. Moreover, its current claims of good faith regarding not reinstating Whitehead are substantially the same arguments previously made and rejected by the Commission. Therefore, there is no basis for the Commission to alter its determination to assess a \$10,000 fine.

Under these circumstances, East Orange has not shown that there is clear material error and no new evidence has been presented which would change the outcome of the case. Accordingly, the Commission finds no grounds on which to grant reconsideration of its prior decision.

ORDER

Therefore, it is ordered that the request for reconsideration 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 8TH DAY OF APRIL, 2026



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