



STATE OF NEW JERSEY

 FINAL ADMINISTRATIVE ACTION
 OF THE
 CIVIL SERVICE COMMISSION

 In the Matter of C.L., Police Officer
 (S9999U), City of Asbury Park

Medical Review Panel Appeal

CSC Docket No. 2018-1301

ISSUED: JANUARY 24, 2019 (EG)

C.L., represented by Richard E. Incremona, Esq., appeals his rejection as a Police Officer candidate by the City of Asbury Park and its request to remove his name from the eligible list for Police Officer (S9999U) on the basis of psychological unfitness to perform effectively the duties of the position.

This appeal was brought before the Medical Review Panel which rendered a report and recommendation. No exceptions were filed by the parties.

The report by the Medical Review Panel discusses all submitted evaluations. The Panel concluded that the test results and procedures and the behavioral record, when viewed in light of the Job Specification for Police Officer, indicate that the candidate is mentally fit to perform effectively the duties of the position sought, and therefore, the action of the hiring authority should not be upheld. The Panel recommended that the applicant be reinstated to the eligible list.

CONCLUSION

The Job Specification for the title, Police Officer, is the official job description for such municipal positions within the civil service system. The specification lists examples of work and the knowledge, skills and abilities necessary to perform the job. Examples include the ability to find practical ways of dealing with a problem, the ability to effectively use services and equipment, the ability to follow rules, the ability to put up with and handle abuse from a person or group, the ability to take

the lead or take charge, knowledge of traffic laws and ordinances, and a willingness to take proper action in preventing potential accidents from occurring.

Police Officers are responsible for their lives, the lives of other officers and the public. In addition, they are entrusted with lethal weapons and are in daily contact with the public. They use and maintain expensive equipment and vehicle(s) and must be able to drive safely as they often transport suspects, witnesses and other officers. A Police Officer performs searches of suspects and crime scenes and is responsible for recording all details associated with such searches. A Police Officer must be capable of responding effectively to a suicidal or homicidal situation or an abusive crowd. The job also involves the performance of routine tasks such as logging calls, recording information, labeling evidence, maintaining surveillance, patrolling assigned areas, performing inventories, maintaining uniforms and cleaning weapons.

Having considered the record including the job specification for the title of Police Officer and the Medical Review Panel's Report and Recommendation issued thereon, and having made an independent evaluation of same, the Civil Service Commission accepted and adopted the findings and conclusions as contained in the attached Medical Review Panel's Report and Recommendation.

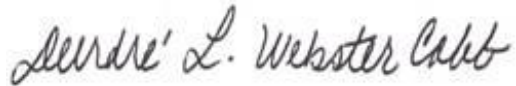
ORDER

The Civil Service Commission finds that the appointing authority has not met its burden of proof that C.L. is psychologically unfit to perform effectively the duties of a Police Officer and, therefore, the Commission orders that his name be restored to the subject eligible list. Absent any disqualification issue ascertained through an updated background check conducted after a conditional offer of appointment, the appellant's appointment is otherwise mandated. A federal law, the Americans With Disabilities Act (ADA), 42 U.S.C.A. § 12112(d)(3), expressly requires that a job offer be made before any individual is required to submit to a medical or psychological examination. *See also* the Equal Employment Opportunity Commission's *ADA Enforcement Guidelines: Preemployment Disability Related Questions and Medical Examination* (October 10, 1995). That offer having been made, it is clear that, absent the erroneous disqualification, the aggrieved individual would have been employed in the position.

Since the appointing authority has not supported its burden of proof, upon the successful completion of his working test period, the Commission orders that appellant be granted a retroactive date of appointment of July 26, 2017, the date he would have been appointed if his name had not been removed from the subject eligible list. This date is for salary step placement and seniority-based purposes only. However, the Commission does not grant any other relief, such as back pay or counsel fees, except the relief enumerated above.

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 16TH DAY OF JANUARY, 2019



Deirdré L. Webster Cobb
Chairperson
Civil Service Commission

Inquiries
and
Correspondence:

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

c: C.L.
Richard E. Incremona, Esq.
Michael Capabianco
Kelly Glenn