



**STATE OF NEW JERSEY**

In the Matter of Richard Bandurski,  
Police Sergeant (PM4564C),  
Hopatcong

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

CSC Docket No. 2022-1384

Examination Appeal

**ISSUED: MARCH 4, 2022 (JH)**

Richard Bandurski appeals the determination of the Division of Agency Services (Agency Services) which found that he lacked the required amount of permanent status in a title to which the examination was open for the promotional examination for Police Sergeant (PM4546C), Hopatcong.

By way of background, effective July 31, 2017, Bandurski was appointed to the Police Officer title in Newark. Effective June 1, 2020, Bandurski intergovernmentally transferred from Newark to Hopatcong in the title of Police Officer. A review of the intergovernmental transfer agreement finds that Bandurski requested to waive his rights to all accumulated seniority and to all accumulated sick leave. The receiving agency in the intergovernmental transfer agreement acknowledged the request and certified that his accumulated seniority and accumulated sick leave would not be retained after the effectuation of the intergovernmental transfer.

The announcement for the subject examination was issued on October 1, 2021 and open to employees in the competitive division who had an aggregate of three years of continuous permanent service and were serving in the Police Officer title as of the December 31, 2021 closing date. Accordingly, Agency Services found Bandurski ineligible as he did not possess three years of continuous permanent service in Hopatcong as of the December 31, 2021 closing date. It is noted that there were seven eligible candidates, and the examination for Police Sergeant was administered on February 26, 2022.

On appeal, the appellant presents that he has been “in the position of ‘Police Officer’ . . . since July 31, 2017 when I was employed by the City of Newark, and have served in the same title since that date.” He asserts that the intergovernmental transfer “was between two local agencies . . . [and] there was not a break in my service during the transfer . . . In the state statute [*sic*] it does not state an officer has to have been within that department to be eligible for the promotional exam. It states you need to have three years of continuous permanent status in the job title, which I have held since there was no break in my service holding the title of Police Officer.” The appellant maintains that that the “waiver has no bas[i]s for this appeal.” In this regard, he argues that he is not “making an appeal about my seniority or sick time. An appeal of seniority is if I was appealing that I am senior to someone [i]n the department. I am appealing my total time as a Police Officer [that] allows me to take [the] promotional exam.”<sup>1</sup> He further argues that he is being discriminated against “because I transferred to another department to better my life. I also feel I am being discriminated against due to my military service which has caused a military leave of absence while employed as a police officer. It also is restricting me from bettering my life by not allowing me to take a promotional exam which I am qualified to take.”

## CONCLUSION

Although the appellant claims that the waiver has no bearing on his appeal, it is, in fact, the crux of the matter. In this regard, it is noted that the only mechanism that allows an employee of one Civil Service jurisdiction to carry over his or her permanent service to another Civil Service jurisdiction is an intergovernmental transfer. An intergovernmental transfer permits the transfer of State, county and municipal employees between jurisdictions without loss of permanent status, subject to the approval of the transferring agency, the receiving agency, the transferring employee, and the Civil Service Commission. Specifically, *N.J.S.A.* 11A:2-28(a) provides for the intergovernmental transfer of law enforcement officers and permits them the option to waive all accumulated seniority and sick leave. In other words, the parties to an intergovernmental transfer can agree *not to waive accumulated seniority*. Retention of accumulated seniority rights in the context of an

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<sup>1</sup> Despite the appellant’s contention that seniority means whether he is “senior to someone [i]n the department,” “seniority” for Civil Service purposes may refer to a candidate’s amount of continuous permanent service. In this regard, layoff rules provide, in pertinent part:

For police and fire titles in State and local service, seniority for purposes of this chapter is the amount of continuous permanent service in an employee’s current permanent title and other titles that have (or would have had) lateral or demotional rights to the current permanent title. A police officer’s continuous permanent service accumulated prior to an intergovernmental transfer effected in accordance with *N.J.A.C.* 4A:4-7.1A, shall be considered as continuous permanent service in the jurisdiction unless the police officer waives all accumulated sick leave and seniority rights in effecting the transfer. *See N.J.A.C.* 4A:8-2.4(b).

intergovernmental transfer means that all seniority gained in the prior jurisdiction shall be retained for purposes of determining promotional, layoff or demotional rights and sick and vacation leave entitlements in the receiving jurisdiction. *See N.J.A.C. 4A:4-7.4(b)*. If this were to occur, a Police Officer who intergovernmentally transferred to another jurisdiction as a Police Officer would retain accumulated seniority after the transfer. Conversely, *N.J.A.C. 4A:4-7.4(c)* specifically provides that those law enforcement officers who intergovernmentally transfer and waive all accumulated seniority rights shall *not* retain seniority for purposes of determining *promotional*, layoff or demotional rights and sick and vacation leave entitlements.

As noted previously, to establish eligibility for the subject examination, a candidate must possess an aggregate of three years of *continuous* permanent service in the Police Officer title as of the December 31, 2021 closing date. *See N.J.A.C. 4A:4-2.6(b)*. Pursuant to *N.J.A.C. 4A:4-2.6(a)*, aggregate service shall be calculated in the same manner as seniority as set forth in *N.J.A.C. 4A:4-2.15*. In this regard, *N.J.A.C. 4A:4-2.15(d)3* provides:

Continuous permanent service accumulated prior to an intergovernmental transfer pursuant to *N.J.A.C. 4A:4-7.1A* shall be deducted from seniority for all firefighters, and for those law enforcement officers, including sheriff's officers and county correction officers, who have waived all accumulated seniority rights in agreeing to an intergovernmental transfer.

Furthermore, *N.J.A.C. 4A:4-7.4* (Retention of rights) provides, in pertinent part, that in the case of an intergovernmental transfer in accordance with *N.J.A.C. 4A:4-7.1A*, those law enforcement officers who intergovernmentally transfer and waive all accumulated seniority rights shall not retain such seniority for purposes of determining *promotional*, layoff or demotional rights and sick and vacation leave entitlements. As such, the appellant's seniority for Civil Service-related programs such as promotional examination eligibility accrue as of June 1, 2020. In other words, given that the appellant opted to waive all accumulated seniority, the "total time as a Police Officer [that] allows me to take [the] promotional exam" begins on June 1, 2020 for the purposes of the subject promotional examination.

With regard to his claim that he is "being discriminated against due to my military service which has caused a military leave of absence while employed as a police officer," as noted previously, *N.J.A.C. 4A:4-2.6* (Eligibility for promotional examination) provides, in pertinent part, that aggregate service shall be calculated in the same manner as seniority as set forth in *N.J.A.C. 4A:4-2.15*. In this regard, *N.J.A.C. 4A:4-2.15(d)1* provides, in pertinent part that in calculating seniority for promotional examinations, the following types of leaves shall not be deducted from seniority:

- i. All leaves with pay including sick leave injury (SLI);
- ii. Military, educational, gubernatorial appointment, personal sick, disability, family, furlough extension, and voluntary alternative to layoff leaves of absence without pay; and
- iii. In local service, leave without pay to fill elective office .

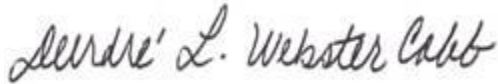
Thus, military leave is not deducted in calculating aggregate service for promotional exam eligibility. Furthermore, a review of the record finds that the appellant did not utilize military leave during his employment with the Hopatcong Police Department.

### 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 2<sup>ND</sup> DAY OF MARCH, 2022




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Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

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c: Richard Bandurski  
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