



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of the Jersey City
Parking Authority

CSC Docket No. 2015-104

Administrative Appeal

ISSUED: **AUG 01 2014** (DASV)

The City of Jersey City (Jersey City) requests that the former employees of the Jersey City Parking Authority (Parking Authority) be recorded as employees of its Department of Public Safety or Department of Public Works effective July 1, 2014.

By way background, on April 9, 2014, the Local Finance Board approved Jersey City's application for dissolution of the Parking Authority, a non-Civil Service agency,¹ and "absorption" of its 86 employees. The effective date of the transfer was July 1, 2014. The Division of Classification and Personnel Management (CPM) conducted a review of the Parking Authority employees' classifications and years of service to determine the proper placement of the employees in Jersey City. CPM has proposed appropriate job titles in the career service or unclassified service for each position.²

¹ Parking Authorities are autonomous agencies that are largely independent of the municipality creating them and not subject to Title 11A of the New Jersey Statutes. In that regard, although the statutes governing Parking Authorities, *N.J.S.A. 40:11A-1, et seq.*, are silent regarding the applicability of Title 11A to employees, the Superior Court of New Jersey, Appellate Division, has held that employees of Parking Authorities are not Civil Service employees. *See State v. Parking Authority of City of Trenton*, 29 *N.J. Super.* 335 (App. Div. 1954).

² Jersey City had initially proposed the creation of certain titles to accurately classify the duties and responsibilities of the parking enforcement officers. However, since CPM has selected appropriate titles which are already in existence for all positions, that portion of Jersey City's proposal has been rendered moot.

In the instant matter, Jersey City requests that the employees of the Parking Authority who have worked for one year or more with the Parking Authority prior to the July 1, 2014 transfer date, and will hold career service titles in Jersey City, be deemed to have attained permanent status in their present positions with Jersey City. It indicates that the Parking Authority was once a part of Jersey City, which had adopted Title 11A of the New Jersey Statutes, and its employees were previously considered Civil Service employees. CPM supports Jersey City's request and notes that the employees who hold career service titles but possess less than one year of employment with the Parking Authority prior to the July 1, 2014 transfer date have been afforded provisional appointments. Additionally, CPM indicates that certifications of applicable special reemployment lists have been issued. Jersey City acknowledges that the special reemployment lists will be utilized prior to effectuating the permanent appointments.

CONCLUSION

Initially, the Civil Service Commission (Commission) notes that, effective April 3, 2007, the Legislature made substantial changes to the laws governing the sharing of services and consolidation of local governments. See P.L. 2007, c. 63. These changes included the repeal of *N.J.S.A. 11A:9-8*, effective November 1, 2007, which had stated that "[w]hen the functions of two or more political subdivisions are consolidated, and any one of the political subdivisions shall be operating under [Title 11A] at the time of such consolidation, the other political subdivision or subdivisions shall be deemed to have adopted this title with regard to the consolidated functions." The April 3, 2007 changes, entitled the "Uniform Shared Services and Consolidation Act," *N.J.S.A. 40A:65-1, et seq.*, set forth the three different types of local government consolidations: a shared services agreement, a joint meeting, and municipal consolidation.

However, the movement of employees from the Parking Authority to Jersey City would not be the type of arrangement contemplated by the Uniform Shared Services and Consolidation Act.³ Rather, the Parking Authority in this case was dissolved and its employees, in essence, simply ceased to be employed with that entity. Thus, the "absorption" of Parking Authority employees into Jersey City on July 1, 2014 constitutes new appointments that have been made. Accordingly, Jersey City's request must be considered a request for permanent appointments. In that regard, *N.J.A.C. 4A:4-1.10(c)* provides that "[w]hen a regular appointment has

³ For instance, although Parking Authorities fall within the definition of a "local unit" in *N.J.S.A. 40A:65-3*, it would be redundant for Parking Authorities to enter into shared services agreements with their respective jurisdictions, since Parking Authorities are already statutorily authorized to provide certain services for their jurisdictions. Essentially, it would be a situation where a jurisdiction is creating an independent entity to provide a certain service for it (*i.e.*, parking enforcement) and then entering into a shared services agreement with that entity to perform that service.

been made, the [Commission] may order a retroactive appointment date due to administrative error, administrative delay or other good cause, on notice to affected parties." Further, the method by which an individual can achieve permanent appointment in the competitive division is if the individual applies for and passes an examination, is appointed from an eligible list, and satisfactorily completes a working test period. However, in the present case, it would be inequitable and possibly detrimental for the employees who have worked in the Parking Authority for one or more years to compete in an open-competitive examination situation, and conceivably be displaced, in order to secure a position which they have already clearly demonstrated their merit and fitness to perform.

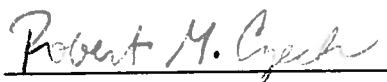
In these unique circumstances, while *N.J.S.A. 11A:9-9* does not precisely mirror the present situation, its application is instructive. *N.J.S.A. 11A:9-9* provides that "[a]ny employee of a political subdivision who, at the time of adoption of [Title 11A], was actively employed by the political subdivision continuously for a period of at least one year prior to the adoption of [Title 11A], or any employee who was on an approved leave of absence and had at least one year of continuous service with the political subdivision prior to the adoption of [Title 11A], and who comes within the career service, shall continue to hold such position, and shall not be removed except in accordance with the provisions contained in [Title 11A]." See also *N.J.A.C. 4A:9-1.1(b)*. In the present case, the Parking Authority employees have come within the career service by virtue of their agency's dissolution and the utilization of their positions within Jersey City, a jurisdiction that has adopted Title 11A. Accordingly, under these circumstances, good cause has been presented to grant Jersey City's request. Moreover, those individuals who did not possess one year of service as of the July 1, 2014 transfer date are correctly considered provisionally appointed on that date and must proceed through the examination process in order to achieve permanent status.

CONCLUSION

Therefore, it is ordered that this request be granted.

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 30TH DAY OF JULY, 2014



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