

B-55



STATE OF NEW JERSEY

In the Matter of Jerome Heath,
Camden County Police Department

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-591

Request for Administrative Relief

ISSUED: SEP 19 2014 (CSM)

Camden County, represented by Tara L. Humma, Assistant County Counsel, requests the retroactive appointment of Jerome Heath to the title of County Police Sergeant effective April 30, 2013.

By way of background, the Civil Service Commission (Commission) established the Camden County Police Department Pilot Program for a period of one year from November 1, 2012 to October 31, 2013 in order to permit an expedited hiring process of trained and qualified individuals to staff the newly established Camden County Police Department. *See In the Matter of Camden County Police Department Pilot Program* (CSC, decided October 3, 2012). In accordance with this program, Heath was offered and accepted employment with the Camden County Police Department on March 21, 2013. However, during the course of the pilot program, Heath was on a leave of absence under the Uniformed Service Employment and Reemployment Rights Act (USERRA) as he was on active duty with the United States Army.

In its request to the Commission, Camden County states that due to the fact that Heath was on a military leave of absence, it inadvertently omitted him from consideration for a promotion to County Police Sergeant. In this regard, it states that Heath is highly qualified and had the administrative oversight not occurred, he would have been promoted to County Police Sergeant during the course of the pilot program effective April 30, 2013. Under these circumstances, Camden County requests that it be permitted to correct this administrative oversight and promote Heath to County Police Sergeant effective April 30, 2013.

A review of agency records indicates that Heath was a Police Officer with the former City of Camden Police Department from April 1994 to April 2013 and was appointed as a County Police Officer on April 30, 2013. During his tenure with the City of Camden Police Department, Heath competed in three promotional examinations for Police Sergeant and achieved passing scores.

CONCLUSION

Initially, with respect to qualifications for advancement, the Pilot Program specifically indicated that all levels of Police Officers would be recruited from various jurisdictions. Thus, it was possible that the Camden County Police Department could be able to be initially staffed with the required levels of superior officers as the Pilot Program permitted the appointment of similar ranked Police Officers to the equivalent rank County Police Officer. However, in the event promotions became necessary during the life of this Pilot Program, the Commission ordered that potential candidates satisfy the minimum requirements for the promotional title as indicated in the appropriate job specification. For example, any potential applicant for County Police Sergeant would be required to have three years of experience performing police work and a potential applicant for County Police Lieutenant would be required to have two years of supervisory police work as a Police Sergeant. *See Camden County Police Department Pilot Program, supra.* In this case, agency records confirm that Heath had well over three years of experience performing police work since he was appointed as a Police Officer in 1994. Moreover, it is evident that he demonstrated his relative merit and fitness to perform higher level police work as he had taken and passed promotional examinations for Police Sergeant on three different occasions. As such, Heath satisfied the requirements for appointment to County Police Sergeant in accordance with the Pilot Program.

Camden County has indicated that Heath was on a military leave during the course of the Pilot Program which caused it to inadvertently omit him from consideration for a promotion to County Police Sergeant. 20 *CFR* 1002 is the federal regulatory provision that implements USERRA. 20 *CFR* 1002.191 states, in pertinent part:

As a general rule, the employee is entitled to reemployment in the job position that he or she would have attained with reasonable certainty if not for the absence due to uniformed service. This position is known as the escalator position. The principle behind the escalator position is that, if not for the period of uniformed service, the employee could have been promoted (or, alternatively, demoted, transferred, or laid off) due to intervening events.

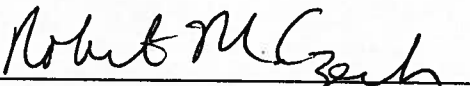
An individual who is reemployed in accordance with USERRA is entitled to seniority for the period of qualifying service which *could* include any opportunities for advancement for which he or she is qualified. See 20 CFR 1002.193(a) (b). Therefore, since Heath is qualified for County Police Sergeant and Camden County has indicated that it would have appointed him to that title but for his military service, his County and Municipal Personnel System (CAMPS) record should be revised to reflect his appointment as County Police Sergeant effective April 30, 2013.

ORDER

Therefore, it is ordered that this request be granted and Jerome Heath be appointed as a County Police Sergeant effective April 30, 2013.

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 17TH DAY OF SEPTEMBER, 2014


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