

B-30



STATE OF NEW JERSEY

In the Matter of Construction Official
(PM1510B), East Orange

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2014-2290

List Revival

ISSUED: JUL 17 2014 (CSM)

The Division of Classification and Personnel Management (CPM), on behalf of the City of East Orange (East Orange), requests that the promotional list for Construction Official (PM1510B), East Orange, be revived in order to effectuate the permanent appointment of Lloyd Abdul-Raheem.

By way of background, Abdul-Raheem was the sole eligible on the Construction Official (PM1510B), East Orange, eligible list which promulgated on July 5, 2001 and expired on July 4, 2004. Certification PL011351 was issued on July 9, 2001 with Abdul-Raheem as the sole eligible but it was never returned to this agency. Therefore, on July 16, 2002, the certification was recorded with a disposition code of I9 (retain, provisional appointee serving, certification incomplete, no appointments) as Abdul-Raheem was provisionally serving in the subject title. Subsequently, CPM submitted a request for another promotional announcement for Construction Official since Abdul-Raheem was still provisionally serving in the title pending promotional procedures. Thereafter, East Orange submitted a request in April 2012 to revive the PM1510B eligible list in order to correct the prior administrative error of not disposing of certification PL011351. However, on May 2, 2012, East Orange permanently appointed Abdul-Raheem to the title of Zoning Officer from an open competitive list for that title (M2346N) effective February 10, 2012.¹ As such, a staff member from CPM advised East Orange that there was an insufficient basis to revive the Construction Official (PM1510B) list.

¹ Abdul-Raheem serves as both the Construction Official and as a part-time Zoning Officer.

In its request to the Civil Service Commission (Commission), CPM explains that Abdul-Raheem has been serving provisionally, pending promotional procedures in the Construction Official title since May 5, 1999. While the matter of his permanent promotional appointment to his full-time Construction Official position was pending, he achieved permanency in a separate, part-time position that he also held with the appointing authority, Zoning Officer. Thus, although he was permanently appointed to his part-time position of Zoning Officer in May 2012, he continued to work as the full-time Construction Official. It also states that no other promotional announcements for the subject title were issued to East Orange after the PM1510B list expired on July 4, 2004. Thus, Abdul-Raheem was never given the opportunity to take another promotional examination for Construction Official even though he served provisionally in the title for almost 13 years. Under these circumstances, CPM recommends that the promotional list for Construction Official (PM1510B) be revived and Abdul-Raheem be retroactively appointed effective July 9, 2001.

The parties in this matter were provided the opportunity to submit additional information for the Commission to review. In response, Abdul-Raheem, represented by Jody T. Walker, Esq., states that he should be permanently appointed as a Construction Official as his name was properly certified in 2001 but East Orange did not dispose of the certification. Additionally, he notes that as a long-term provisional appointee, he can be considered permanent in the title, even though East Orange failed to advise this agency of his appointment. Abdul-Raheem emphasizes that he has worked as the Construction Official for East Orange for the last 15 years, since he was provisionally appointed to the title in 1999, passed the test, and heard nothing else about his permanent appointment until many years later, in 2012, when East Orange requested the subject list revival and retroactive appointment date. Therefore, Abdul-Raheem requests that East Orange's request to retroactively appoint him to the title of Construction Official be granted.

Although provided the opportunity, East Orange did not submit any additional information for the Commission to review in this matter.

CONCLUSION

N.J.A.C. 4A:4-3.4 provides that an eligible list may be revived under the following circumstances:

1. To implement a court order, in a suit filed prior to the expiration of the list;
2. To implement an order of the [Commission] in an appeal or proceeding instituted during the life of the list;
3. To correct an administrative error;
4. To effect the appointment of an eligible whose working test

- period was terminated by a layoff; or
5. For other good cause.

N.J.A.C. 4A:4-1.10(c) provides that, when a regular appointment has been made, the Commission may order a retroactive appointment date due to administrative error, administrative delay or other good cause. Generally, this unique remedy has been reserved for two particular situations. First, the Commission has granted retroactive permanent appointment dates in circumstances in which an employee was actually serving in and performing the duties of a title, but due to some error or other good cause, his attainment of permanent status was delayed or hindered. The second situation in which an employee may be awarded a retroactive date of permanent appointment is where the name of an employee, whose appointment would have otherwise been mandated, was improperly removed from or bypassed on an eligible list, thereby preventing their appointment. When the Commission subsequently corrects the improper list removal or bypass, the Commission also orders the employee's appointment and a retroactive permanent appointment commensurate with the date on which others were appointed from the certification of the eligible list.

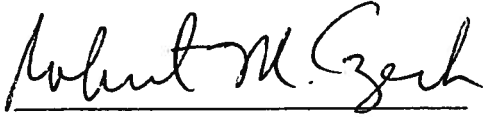
In this matter, East Orange requests that the subject eligible list be revived in order to effectuate Abdul-Raheem's permanent appointment to the subject title. East Orange explains that Abdul-Raheem's name was certified but, due to an administrative error, it did not dispose of the certification. Additionally, Abdul-Raheem has been serving provisionally in the title for over 15 years and has also been performing the duties of a part-time Zoning Inspector. Based on the foregoing, good cause has been shown to revive the Construction Officer (PM1510B) eligible list to permanently appoint Abdul-Raheem effective July 9, 2001. Moreover, since he has been performing the duties of a Construction Official since July 9, 2001, Abdul-Raheem shall be considered as having successfully completed his working test period. Accordingly, Abdul-Raheem's appointment will be considered permanent.

ORDER

Therefore, it is ordered that this request be granted. It is further ordered that the eligible list for Construction Officer (PM1510B) East Orange, be revived and Abdul-Raheem be permanently appointed effective July 9, 2001.

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 JULY, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

c: Lloyd Abdul-Raheem
Jody Walker, Esq.
Michele Ralph-Rawls
Kenneth Connolly
Joseph Gambino