

B-19



STATE OF NEW JERSEY

In the Matter of Kevin Clements,
Deptford Township

CSC Docket No. 2016-801

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

Administrative Appeal

ISSUED: SEP 04 2015 (SLK)

Deptford Township (Deptford) requests that Kevin Clements receive a retroactive permanent appointment date of August 11, 2014 to the title of Police Sergeant and that he be admitted to the promotional examination for Police Lieutenant (PM1219T), Deptford Township.

By way of background, Clements was provisionally appointed, pending promotional examination procedures to the title of Police Sergeant, effective March 7, 2012. It is noted there were significant delays in the administration of the Police Sergeant examination due to litigation involving the United States Department of Justice. On August 7, 2014, the Police Sergeant (PM5088M), Deptford Township, eligible list promulgated, including Clements as the first ranked eligible. A certification was issued to the appointing authority on August 11, 2014. However, the appointing authority returned the certification and requested that it be cancelled due to an administrative error. In this regard, the appointing authority asserted that it submitted a request for a certification containing the names of the top three eligibles, when it intended to request a complete certification in order to make three appointments from the eligible list. Thus, the August 11, 2014 certification was cancelled and a new certification was issued on November 5, 2014. Clements was appointed from this certification, effective November 18, 2014.

On July 1, 2015, the Police Lieutenant (PM1219T), Deptford Township, promotional examination was announced with a closing date of September 30, 2015. The examination was open to employees with one year of permanent service in the title of Police Sergeant. Clements filed for this examination, and he has been conditionally admitted, pending the outcome of this request.

Given the above background, the appointing authority requests that Clements be given a retroactive date of permanent appointment of August 11, 2014. It notes that it had a complete certification of the Police Sergeant (PM5008M), Deptford Township, eligible list on that date and could have effectuated his appointment at that time. However, due to an administrative error and misunderstanding, it cancelled that certification in order to receive a certification containing the names of additional eligibles in order to effectuate two more appointments from the list. Clements has been performing the duties of a Police Sergeant continuously since March 7, 2012.

The Division of Agency Services endorses the appointing authority's request to record the retroactive appointment of Mr. Clements to Police Sergeant in Deptford effective August 11, 2014.

CONCLUSION

N.J.A.C. 4A:4-1.10(c) provides that when a regular appointment is made, a retroactive appointment date may be ordered due to administrative error, administrative delay or other good cause. Generally, this unique remedy has been reserved for two particular situations. First, and germane to this matter, retroactive appointment dates have been granted 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 or her 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 the appointment.

In this case, the record established that Clements was the first ranked eligible on the promotional list for Police Sergeant (PM5008M), which was promulgated on August 7, 2014. In addition, he appeared in the first position on the complete certification that was issued on August 11, 2014. He, thus, was reachable for appointment at that time. See *N.J.A.C.* 4A:4-4.8(a)3. The appointing authority reports that it erroneously cancelled the August 11, 2014 certification, delaying Clements' permanent appointment until November 18, 2014. Finally, Clements has been serving as a Police Sergeant continuously since March 7, 2012. Clements has completed his working test period as a Police Sergeant. Consequently, Clements' permanent appointment should be recorded as August 11, 2014.

Since Clements is deemed to have been permanent since August 11, 2014, the Civil Service Commission (Commission) finds that he should be admitted to the promotional examination for Police Lieutenant (PM1219T), Deptford Township.

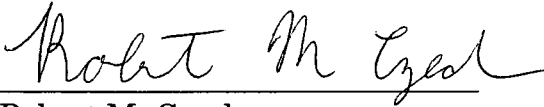
ORDER

Therefore, it is ordered that this request be granted and the permanent appointment of Kevin Clements to the title of Police Sergeant be recorded as August

11, 2014. Additionally, the Commission orders that he be admitted to the promotional examination for Police Lieutenant (PM1219T), Deptford Township.

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 2nd DAY OF SEPTEMBER, 2015



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