



STATE OF NEW JERSEY

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

In the Matter of Willie Sierra,
City of Union City

CSC Docket No. 2018-3466

Administrative Appeal

ISSUED: OCTOBER 3, 2018 (WR)

The City of Union City petitions the Civil Service Commission (Commission) for a retroactive date of appointment to the title of Police Lieutenant for Willie Sierra, in order to effectuate the terms of a settlement agreement.

By way of background, the eligible list for Police Lieutenant (PM5074N), City of Union City, promulgated on February 16, 2012 and expired on February 15, 2015. Sierra ranked seventh on the subject eligible list. The first six eligibles were certified (PL130716) on June 24, 2013 and all but the fifth-ranked eligible were appointed, effective June 28, 2013. Thereafter, Sierra appeared as the second-ranked eligible on the second and final certification (PL140995) that was issued on August 18, 2014. The first-ranked eligible was the only individual appointed, effective September 9, 2014.¹ Thereafter, on March 4, 2017, Sierra and Union City reached a settlement, which provides, in relevant part, that Sierra be given a retroactive appointment date of June 28, 2013, for seniority step purposes only, to the title of Police Lieutenant.

In the instant petition, the appointing authority requests that the Commission provide Sierra with a retroactive date of permanent appointment of June 28, 2013 for seniority purposes.

CONCLUSION

¹ Agency records indicate that Sierra was appointed to the title of Police Lieutenant, effective April 24, 2015 from the Police Lieutenant (PM0982S), City of Union City, eligible list, which promulgated on February 26, 2015 and expires on February 25, 2019.

N.J.A.C. 4A:4-1.10(c) provides:

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, on notice to affected parties.

Generally, the award of a retroactive appointment date is for seniority purposes only and is limited to situations in which an appellant could have been appointed on the requested retroactive date, but as a result of an error on the part of either the appointing authority or the Commission, he or she received a later appointment date. In the instant matter, a settlement was reached between the parties, requiring that the permanent appointment of Sierra to the title of Police Lieutenant be recorded as June 28, 2013. The record reflects that although Sierra's name did not appear on the June 24, 2013 certification, he would have been the next eligible to be certified if the appointing authority had requested additional names. Therefore, as the appointing authority bypassed the fifth-ranked eligible on the certification, Sierra would have been reachable for appointment on June 28, 2013. The policy of the judicial system strongly favors settlement. *See Nolan v. Lee Ho*, 120 *N.J.* 465 (1990); *Honeywell v. Bubb*, 130 *N.J. Super.* 130 (App. Div. 1974); *Jannarone v. W.T. Co.*, 65 *N.J. Super.* 472 (App. Div. 1961), *cert. denied*, 35 *N.J.* 61 (1961). This policy is equally applicable in the administrative area. A settlement will be set aside only where there is fraud or other compelling circumstances. *See Nolan, supra*. It is noted that Sierra has completed his working test period. Therefore, the Commission finds that good cause has been presented to grant Sierra a retroactive date of permanent appointment of June 28, 2013, for seniority purposes only.

ORDER

Therefore, it is ordered that this request be granted and the permanent appointment of Willie Sierra to the title of Police Lieutenant be recorded as June 28, 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 3rd DAY OF OCTOBER, 2018

Deirdre' L. Webster Cobb

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