



STATE OF NEW JERSEY

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

In the Matter of Bradley Downing,
Borough of Roselle

CSC Docket No. 2019-577

Administrative Appeal

ISSUED: NOVEMBER 21, 2018(WR)

The Borough of Roselle, represented by Margaret A. Miller, Esq., petitions the Civil Service Commission (Commission) for a retroactive date of appointment to the title of Police Captain for Bradley Downing, in order to effectuate the terms of a settlement agreement.

By way of background, the eligible list for Police Captain (PM7574N), Borough of Roselle, promulgated on February 23, 2012 and expired on March 28, 2018. The appellant ranked first out of three eligibles on the subject eligible list. All three eligibles were certified (PL131455) on December 17, 2013 and the third-ranked eligible was appointed, effective January 1, 2014. It is noted that the appellant retired from the Roselle Police Department on March 1, 2015 as a Police Lieutenant. Thereafter, on December 28, 2015, the appellant initiated a lawsuit against the appointing authority, alleging that he was bypassed on the subject eligible list on account of his race and “constructively discharged” by the appointing authority on March 1, 2015. On July 30, 2018, the appellant and Roselle reached a settlement, which provides, in relevant part, that the appellant be given a retroactive appointment date of March 1, 2014 to the title of Police Captain.

In the instant petition, the appointing authority requests that the Commission provide the appellant with a retroactive date of permanent appointment of March 1, 2014.

CONCLUSION

N.J.S.A. 11A:4-6 and *N.J.A.C.* 4A:4-3.4(a) provide that an expired eligible list may be revived to implement a court order, in a suit filed prior to the expiration of the list; to implement an order of the Commission in an appeal or proceeding instituted during the life of the list; to correct an administrative error; to effect the appointment of an eligible whose working test period was terminated by a layoff; or for other good cause.

In the instant matter, the settlement agreement reached between the parties requires that the Commission revive the Police Captain (PM7574N) eligible list in order to effectuate the appellant's appointment, effective March 1, 2014. 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*. As the Commission finds that the relevant portions of the settlement agreement are in accordance with Civil Service laws and rules, good cause has been presented to revive the subject eligible list and record the appellant's regular appointment from that list, effective March 1, 2014.

ORDER

Therefore, the Commission orders that the subject eligible list be revived to effectuate the regular appointment of Bradley Downing, effective March 1, 2014.

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 21st DAY OF NOVEMBER, 2018



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