



STATE OF NEW JERSEY

In the Matter of Dane Coleman, *et al.*, Police Sergeant, Jersey City

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

CSC Docket Nos. 2024-1249, *et al.*

Administrative Appeal

Corrected Decision

ISSUED: July 9, 2024

The Jersey City Superior Officers' Association (JCPSOA), represented by Frank C. Cioffi, Esq., on behalf of Dane Coleman, Alberto Vasquez, Osama Badawi, Michael Stise, Christian Ona, Matthew Scalcione, Michael Galvez, Anthony Moschella, Joziph Soliman, Maria Cortes, Miguel Rivera, William Braker, Ismael Cortes, and Michael Szymanski, requests that they be assigned regular retroactive appointments, effective November 24, 2020, to the title of Police Sergeant.

By way of background, the promotional eligible list for Police Sergeant (PM2041V), Jersey City, which promulgated on May 24, 2018, and expired on May 23, 2022, contained the names of 328 eligibles. The petitioners appeared in the following order (rank): Dane Coleman (44), Alberto Vasquez (45), Osama Badawi (46), Michael Stise (47), Christian Ona (48), Matthew Scalcione (49), Michael Galvez (50), Anthony Moschella (50), Joziph Soliman (53), Maria Cortes (54), Miguel Rivera (55), William Braker (56), Ismael Cortes (57), and Michael Szymanski (58). The first certification of the PM2041V list, which was issued on June 20, 2019 (Certification No. PL190837), contained the names of the eligibles who appeared at ranks 1 through 18. In disposing of PL190837, Jersey City appointed 15 eligibles, effective June 20, 2019.<sup>1</sup> The second certification of the PM2041V list, which issued on February 27, 2020 (Certification No. PL200294), contained the names of the eligibles who appeared at ranks 19 through 42. In disposing of PL200294, Jersey City appointed 21 eligibles, effective November 24, 2020. The third certification of the PM2041V list, which was issued on January 28, 2021 (Certification No. PL210072), contained the names of the

<sup>1</sup> However, as discussed in further detail below, Jersey City subsequently requested retroactive appointment dates, effective August 9, 2018, for these individuals. See *In the Matter of Luz Rojas, et al., Police Sergeant, Jersey City* (CSC, decided October 23, 2019).

eligibles who appeared at ranks 36, and 43 through 60. In disposing of PL210072, Jersey City appointed 14 eligibles, effective January 28, 2021, and one eligible (who was a make-up candidate who appeared at rank 51A), effective February 25, 2021.<sup>2</sup>

In its request dated November 30, 2023, JCPSOA presents that “on November 24, 2020, Jersey City promoted thirty-five (35) officers to the rank of Police Sergeant . . . Despite thirty-five (35) officers being promoted to the rank of Police Sergeant on November 24, 2020, the City submitted a Certification of only twenty-one (21) names to the Civil Service Commission . . . The certification indicated that these twenty-one (21) officers listed in this Certification were appointed to the rank of Sergeant on November 24, 2020.”<sup>3</sup> JCPSOA maintains that “on July 13, 2021, the [City] submitted a second certification of Eligibles for Appointment to the [Commission]<sup>4</sup> . . . This list included the remaining fourteen (14) individuals who were also appointed to the position of Sergeant on November 24, 2020. However, the City listed indicated [*sic*] that January 28, 2021 was the appointment date for these fourteen (14) officers.” JCPSOA further indicates that “on November 28, 2022, Sergeant Joziph Soliman submitted a letter to the [Commission] . . . The letter indicated that Sergeant Soliman was promoted to the rank of Sergeant on November 24, 2020. The letter also indicated that Sergeant Soliman has been paid as a Sergeant since November 24, 2020, and that he made pension contributions at his Sergeant rate since his appointment date of November 24, 2020. However, according to [the] Certification provided by the City, Sergeant Soliman’s appointment date to the rank of Sergeant is January 28, 2021.” JCPSOA notes that the Commission stated in its response that Soliman’s appointment date to the Police Sergeant title was effective January 28, 2021 “rather than November 24, 2020 because the City did not request [a] certification [for] Sergeant Soliman and the fourteen (14) other officers until January 28, 2021.” JCPSOA contends that when Jersey City “was informed of the error, the City indicated that the appointment date could not be changed and that this was error caused by the State . . . The City also acknowledged that the separate Certifications will lead to problems with future promotions due to the discrepancy in appointment dates between the City and the State.” In support of its request, JCPSOA provides additional documentation including: Jersey City Police Department Personnel Order 138-20 issued on November 23, 2020 indicating, in part, that “effective Tuesday, November 24, 2020, in accordance with existing New Jersey Civil Service Commission rules and regulations, the following personnel will be promoted to the rank of . . .” In this regard, under Sergeant, the order lists the names of the individuals appearing on the PM2041V eligible list at ranks 19 through 28, 30, 30A, 31, 33, 35, 38 through 42, and the petitioners; a copy of the certification

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<sup>2</sup> See also *In the Matter of Jose Santana, Police Sergeant (PM2041V), Jersey City* (CSC, decided April 6, 2022).

<sup>3</sup> Certification No. PL200294

<sup>4</sup> As noted above, Certification No. PL210072 was the third certification of the PM2041V list which was issued on January 28, 2021 and was due to be returned to the Commission on April 28, 2021. However, PL210072 was not returned until July 2021.

disposition (Certification of Eligibles for Appointment) for PL200294 signed by appointing authority on December 18, 2020; a copy of the certification disposition (Certification of Eligibles for Appointment) for PL210072 signed by appointing authority on July 13, 2021; a copy of a letter dated November 28, 2022, from Joziph Soliman to the Commission indicating that he had been appointed effective November 24, 2020, to the rank of Police Sergeant and requesting that his appointment date be corrected; a letter dated January 5, 2023 from the Deputy Director, Division of Human Resources Information Systems, in response to Soliman indicating, in part, that the available record indicated his “permanent appointment from certification PL210072 effective January 28, 2021”; a copy of an email sent on February 17, 2023, from Soliman to Jersey City Human Resources in which Soliman states, “I am kindly requesting that my promotional date to the rank of Sergeant be corrected. Civil Service has a record of my promotion date as 1/28/21 but I was promoted on 11/24/20”; a copy of an email sent on February 21, 2023 from Jersey City Human Resources staff to Jersey City Department of Administration staff regarding Soliman and indicating, “Internal promotion date of 11/24/2020, but the disposition date on the requested cert was 1/28/2021. I cannot change the Civil Service promotion date, as the certification has a range of dates that can be used. As long as we select one of those dates, Civil Service will accept it. This was a big thing a few years ago, with how employees were being promoted through the City, but not made permanent for a few more months through the State. It has affected test taking rankings, but not sure how severe those rankings were affected”; and a copy of an email sent on April 25, 2023, from Jersey City Human Resources staff to Soliman which indicates, “on the City’s end, we cannot change promotional dates with the State if they are not within the date range provided in the certification. While the City internally promoted you in November of 2020, the certification from the State did not have that date available.”

It is noted that the appointing authority was contacted regarding this matter and did not file an objection.

### CONCLUSION

*N.J.A.C.* 4A:2-1.1 provides that an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation, or action being appealed. *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, on notice to affected parties.

At the outset, it is noted that the instant matter is essentially identical to *In the Matter of Luz Rojas, supra*. As discussed in *In the Matter of Luz Rojas, supra*, on August 9, 2018, Jersey City held a swearing in ceremony for 16 Police Captains and for 15 Police Sergeants. However, while the Police Captains were appropriately appointed from a certification issued on August 3, 2018, Jersey City failed to request a certification of the PM2041V list until June 2019, *i.e.*, 10 months after the swearing in ceremony. Similarly, in the instant matter, as noted above, on November 24, 2020,

Jersey City held a swearing in ceremony for 35 Police Sergeants, whose names appeared at ranks 19 through 58 on the PM2041V list. At the time of the swearing in ceremony, as indicated above, Certification No. PL200294, which did not contain the names of the petitioners, was still outstanding and had not been returned to the Commission for disposition. It is noted that PL200294 was initially due to be returned to the Commission for disposition on May 27, 2020. The Certification Unit was contacted regarding this matter and indicated that on May 13, 2020, Jersey City requested that the return date be extended by six months due to issues arising from the COVID-19 pandemic. For reasons that are unclear from the record, Jersey City did not subsequently request that PL200294 be amended to include additional names, *i.e.*, those of the petitioners, or that it be cancelled and a new certification be issued at the time of the swearing in ceremony. Rather, on December 3, 2020, Jersey City requested another extension and was advised by the Certification Unit to either cancel the certification or return it for disposition. As noted above, Jersey City returned PL200294, which was disposed on January 27, 2021, and requested another certification of the PM2041V list, which was issued the next day on January 28, 2021, two months after the swearing in ceremony. As a result, the appointment date for the petitioners' could not be recorded as November 24, 2020 as the effective date of appointment cannot be prior to the certification issue date. *See N.J.A.C. 4A:4-4.8.*

Thus, any claim that there was State error with respect to the petitioners' appointment date to the Police Sergeant title is misplaced. In this regard, as noted in *In the Matter of Luz Rojas, supra*, "Jersey City was clearly aware that a certification was warranted, as it requested one for the Police Captains who were sworn in on the same day. [Jersey City] had been warned and cautioned by the Commission in March 2018 to request certifications prior to appointments, and yet, it did not do so."<sup>5</sup> The Commission determined that "due to administrative delay, the subject employees should receive regular appointment dates to Police Sergeant retroactive to August 9, 2018 . . . Nevertheless, Jersey City has exhibited a flagrant disregard for the established regulations to which all Civil Service jurisdictions are expected to adhere." Again, similarly in the instant matter, Jersey City was aware that the names of the 35 individuals it swore in as Police Sergeants on November 24, 2020, were required to be certified prior to making regular appointments. Furthermore, Jersey City was aware that PL200294 remained outstanding, which only contained 21 names, at the time of the swearing in ceremony. In other words, prior to the swearing in ceremony, Jersey City could have requested that PL200294 be cancelled and that a new certification be issued containing the names of all 35 individuals.

The Commission will now address the timeliness of the petitioners' request. In this regard, an announcement for Police Lieutenant (PM4118C), Jersey City was subsequently issued on July 1, 2021, and was open to employees in the competitive

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<sup>5</sup> *See In the Matter of Thomas Cowan, et al., Promotional Police Titles, Jersey City* (CSC, decided March 27, 2018).

division who possessed an aggregate of one year of continuous permanent service in the Police Sergeant title as of the September 30, 2021, closing date. It is noted that all of the petitioners, with the exception of Anthony Moschella, applied for the PM4118C examination. Although Jersey City did not request retroactive appointment dates for the petitioners, in a letter dated July 16, 2021, to the Division of Agency Services, it requested that the year-in-grade requirement, *see N.J.A.C. 4A:4-2.6(a)1*, be reduced to completion of the working test period pursuant to *N.J.A.C. 4A:4-2.6(g)*. This request was denied and was appealed by both Jersey City and Joziph Soliman. *See In the Matter of Police Lieutenant (PM4118C), City of Jersey City (CSC, decided September 22, 2021)*. The Commission noted that “Jersey City maintained [in its July 16, 2021 request] that, due to the COVID-19 pandemic, it was forced to delay the promotion of 21 Police Officers to the Police Sergeant title until November 2020” and in a footnote indicated that “Agency records indicate that Soliman was appointed to the title of Police Sergeant effective January 28, 2021.” As discussed in *In the Matter of Police Lieutenant (PM4118C), supra*, the Commission determined that the appointing authority did not meet the criteria pursuant to *N.J.A.C. 4A:4-2.6(g)* and denied its appeal.<sup>6</sup> It is further noted that notices of ineligibility dated September 1, 2021 were sent to those petitioners who applied for PM4118C which indicated that they “lack[ed the] required amount of permanent status in a title to which the examination is open.” Thus, the petitioners were aware as early as September 2021 that there was an issue regarding their appointment date to the Police Sergeant title. Moreover, Soliman was specifically made aware in the above noted decisions that his employment record indicated his appointment date to the Police Sergeant title was January 28, 2021, rather than November 24, 2020. However, none of the applicant petitioners, including Soliman, filed appeals regarding their ineligibility for the PM4118C examination.<sup>7</sup> As such, it is unclear from the record as to why the petitioners waited for over two years to submit the request in this matter.

Nevertheless, given the extraordinary circumstances presented in this matter, including Jersey City’s continued systematic indifference to Civil Service law and rules, a remedy is appropriate. In the present matter, the petitioners are similarly situated to those in *In the Matter of Luz Rojas, supra, i.e.*, they were sworn in as Police Sergeants and began performing the duties of the title on November 24, 2020, but their names were not certified until two months later. Under the foregoing circumstances, the Commission is compelled to grant the petitioners regular

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<sup>6</sup> Subsequently, Soliman requested reconsideration of this matter pursuant to *N.J.A.C. 4A:2-1.6*. *See In the Matter of Joziph Soliman, Police Lieutenant (PM4118C), Jersey City (CSC, decided April 6, 2022)*. In its determination, the Commission noted that Soliman argued that agency employment records were flawed in that “these records show the effective date of his appointment to the title of Police Sergeant as January 28, 2021, when, in actuality, he was promoted to that title on November 24, 2020.” However, this issue was not addressed in that matter.

<sup>7</sup> An announcement for Police Lieutenant (PM3381E), Jersey City was issued on July 1, 2023 and closed on September 30, 2023. All of the petitioners, with the exception of Moschella and Stise, applied for and were admitted to the PM3381E exam, which was administered on October 19, 2023. It is noted that the resultant eligible list was promulgated on April 11, 2024 and is set to expire on April 10, 2027.

appointment dates to Police Sergeant retroactive to November 24, 2020, and they shall be considered to have started their three-month working test period on this date. In addition, any concerns regarding their eligibility for the Police Lieutenant (PM4118C), Jersey City examination will not be considered given the untimeliness of this issue, as noted above.

**ORDER**

Therefore, it is ordered that this request be granted and Dane Coleman, Alberto Vasquez, Osama Badawi, Michael Stise, Christian Ona, Matthew Scalcione, Michael Galvez, Anthony Moschella, Joziph Soliman, Maria Cortes, Miguel Rivera, William Braker, Ismael Cortes, and Michael Szymanski be provided with a regular appointment as Police Sergeant, effective November 24, 2020, and their personnel records should be amended accordingly.

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 3<sup>RD</sup> DAY OF JULY, 2024



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