



|                                     |   |                                    |
|-------------------------------------|---|------------------------------------|
|                                     | : | <b>STATE OF NEW JERSEY</b>         |
|                                     | : |                                    |
| In the Matter of E.F.,              | : | <b>FINAL ADMINISTRATIVE ACTION</b> |
| Department of Law and Public Safety | : | <b>OF THE</b>                      |
|                                     | : | <b>CIVIL SERVICE COMMISSION</b>    |
|                                     | : |                                    |
| CSC Docket No. 2024-201             | : |                                    |
|                                     | : |                                    |
|                                     | : | Salary Overpayment                 |
|                                     | : |                                    |
|                                     | : |                                    |

**ISSUED:** September 2, 2026

E.F., a Lieutenant, State Investigator,<sup>1</sup> (Lieutenant) with the Department of Law and Public Safety, represented by Donald C. Barbati, Esq., requests a waiver of a salary overpayment.

By way of background, the Policemen's Benevolent Association (PBA) Local #383A, of which the appellant is a member, filed a group grievance against the appointing authority, alleging that the appointing authority violated the collective bargaining agreement for several employees serving in the title of Sergeant, State Investigator (Sergeant). In this regard, it argued that the appointing authority failed to place the effected Sergeants in the proper salary step at the time of their promotions. It is noted that the appellant was not one of the officers affected as he was correctly placed on the Sergeant salary guide when promoted. As a result of a March 18, 2022, arbitration award,<sup>2</sup> the appointing authority was directed<sup>3</sup> to make

<sup>1</sup> The appellant was appointed to the unclassified title of Lieutenant, State Investigator, effective August 28, 2021. Prior to that appointment, he served as a Sergeant, State Investigator, from October 26, 2019 to August 27, 2021.

<sup>2</sup> Opinion and Award AR-2020-344.

<sup>3</sup> As a remedy, it was ordered that the affected officers be: 1) retroactively placed at the proper salary step of the Sergeant salary schedule as of the date of they were promoted; and 2) receive back pay and benefits associated therewith. Moreover, it was ordered that the anniversary dates of the affected

corrections with respect to the salaries for such employees. However, the appellant provides that the State erroneously included him as one of the individuals affected by the arbitration award. As noted above, the appellant served as a Sergeant from October 26, 2019 to August 27, 2021, and the appointing authority updated his salary to \$103,324.61<sup>4</sup> at the effective date of his promotion to Sergeant. However, the appellant presents that the appointing authority, upon its review, subsequently determined that it resulted in a salary overpayment in the amount of \$11,644.20.

In his request for waiver of salary overpayment, the appellant argues that the overpayment should be waived as it occurred outside of his control due to an “administrative error.” The appellant explains that he is a member of PBA Local #383A, and the salary overpayment occurred due to the above-mentioned arbitration award which was directed at other members. The appellant states that he was unaware of the receipt of the incorrect salary amounts, as the increases constituted negligible amounts in his pay.<sup>5</sup> In support, the appellant provides a spreadsheet pertaining to the salary payments he received.

Moreover, the appellant presents that when he became aware that he may have been overpaid, he contacted the appointing authority to make it aware that he did not believe that he was entitled to such increases, and he wanted to avoid the subsequent recoupment action. Based on the foregoing, the appellant requests the overpayment amount be waived as set forth in *N.J.A.C. 4A:3-4.21(b)*.

Additionally, the appointing authority supports the appellant’s request. Specifically, the appointing authority presents that the estimated \$11,644.20 resulted from an errant retroactive adjustment when the appellant’s promotion became effective on October 26, 2019. It confirms that the overpayment was due to a processing error that was out of the appellant’s control as he has been overpaid since February 25, 2023, and received retroactive payment due to the reconstruction back to October 26, 2019. It explains that the Governor’s Office of Employee Relations and this agency’s PMIS Unit directed it to correct multiple PMIS actions due to the arbitration award issued March 18, 2022, resulting in the appellant being identified as one of the Sergeants that met the criteria for the award and his salary being revised to Sergeant, Step 8, \$13, 324.61. The appointing authority indicates that this retroactive correction generated a lengthy salary reconstruction from October 26, 2019 to August 27, 2022, which included the across the board increase and

---

officers be adjusted accordingly, and if needed, reflect their proper progression through the salary guide as if they were originally placed at the proper salary step at the time of their respective promotions. The Governor’s Office of Employee Relations, and the PMIS Unit, Civil Service Commission, directed the appointing authority to make such corrections pursuant to the above noted settlement agreement.

<sup>4</sup> Such action consisted of applying across the board increases, anniversary date increases, and retroactive step advancement through the salary schedule, between October 26, 2019 through August 27, 2022. The appellant was placed at step 8 of the identified salary range.

<sup>5</sup> The appellant contends that such amounts constituted payments between \$14.00 to \$20.00 per day.

anniversary date increases and advance to Lieutenant, effective August 28, 2021. However, the appointing authority presents that this agency's PMIS Unit determined that the appellant did not meet the criteria of the award, and he should not have received this retroactive salary adjustment. It reiterates its position that it supports the salary waiver request to hold the appellant harmless for an administrative error which was out of his control.

## CONCLUSION

*N.J.A.C.* 4A:3-4.21 Salary overpayments: State service, provides as follows:

- (a) The [Commission] may waive, in whole or in part, the repayment of an erroneous salary overpayment, or may adjust the repayment schedule based on consideration of the following factors:
  1. The circumstances and amount of the overpayment were such that an employee could reasonably have been unaware of the error;
  2. The overpayment resulted from a specific administrative error, and was not due to mere delay in processing a change in pay status;
  3. The terms of the repayment schedule would result in economic hardship to the employee.

It is well settled that **all** factors outlined in *N.J.A.C.* 4A:3-4.21 must be satisfied to successfully obtain a waiver of the repayment obligation. In the instant matter, the appellant argues that he was unaware of the salary overpayment of \$11,644.20, as the adjustments he received constituted negligible amounts to his pay. The appellant also argues that he took steps to avoid a recoupment action after discovering the overpayment status; and that it occurred as a result of the appointing authority's "administrative error," since he was in the correct salary step at the time the adjustments were made. However, although the appointing authority is in support of the appellant's appeal and states that an administrative error occurred, the appellant has not provided sufficient documentation to show an accounting of his expenses, and as such, there is no evidence that he would experience a financial hardship if required to repay the salary overpayment amount. Therefore, even acknowledging that this overpayment was due to no fault of the appellant and he even tried to alert the appointing authority of the potential overpayment, he has not shown that repayment, especially if based upon a reasonable repayment schedule, would result in economic hardship. In this regard, the appellant has failed to present any substantive evidence in support of his arguments that he is experiencing such a hardship. *See In the Matter of Yvette Waugh, et al. (Commissioner of Personnel,*

*decided October 25, 1996*) (Lack of documentation in support of claimed economic hardships did not warrant waiver of salary overpayment for employees erroneously awarded salary at the fourth step of the salary range). Finally, it is also noted that the appellant's current salary is \$180,244.45, which is further evidence that it would not be economic hardship for the appellant to repay the appointing authority via an agreed upon repayment plan. As such, the appellant has not met all the criteria for a salary overpayment. *See N.J.A.C. 4A:3-4.21(a)3.*

### ORDER

Therefore, it is ordered that this request be denied.

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 2<sup>ND</sup> DAY OF SEPTEMBER, 2026




---

Mary Cruz  
Acting Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

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

c: E.F.  
Donald C. Barbati, Esq.  
Danielle Amari  
Division of Agency Services  
Division of Human Resource Information Services  
Records Center