



STATE OF NEW JERSEY

In the Matter of Muhammed Kangal,
Police Officer (M0072D), Lakewood

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

CSC Docket No. 2023-2858

List Removal Appeal

ISSUED: January 17, 2024 (HS)

Muhammed Kangal appeals the removal of his name from the eligible list for Police Officer (M0072D), Lakewood on the basis of an unsatisfactory employment record.

The appellant, a non-veteran, took and passed the open competitive examination for Police Officer (M0072D), which had a closing date of February 28, 2022. The resulting eligible list promulgated on November 10, 2022 and expired on November 9, 2023. The appellant’s name was certified to the appointing authority on November 10, 2022 (OL221352). In disposing of the certification, the appointing authority requested the removal of the appellant’s name on the basis of an unsatisfactory employment record. Specifically, the appointing authority stated that the appellant had been appointed as a Police Officer with Lakewood in 2021 but did not show up on his first day of work, April 19, 2021, and submitted a resignation letter a day later, April 20, 2021. The appointing authority determined that the appellant had, in essence, quit without notice and that such action was not mature, responsible, or professional.¹

On appeal to the Civil Service Commission (Commission), the appellant disagrees with the appointing authority’s account of events. He initially explains that he is a practicing Muslim and fasts daily, sunrise to sunset, during the month-long

¹ It is noted that the appellant’s separation was recorded in the County and Municipal Personnel System as a resignation in good standing.

Ramadan holiday. The appellant offers the following account of events. He attended his first day of work, which fell during Ramadan and was at the academy. The appellant was initially in a classroom and then proceeded to a physical test. He found that he was unable to balance fasting and physical training, which resulted in his being unable to complete the academy. The appellant states his belief that he should not have been removed from consideration due to his religion. In support, the appellant submits copies of training materials he had received on his first day of work.

In response, the appointing authority agrees that the appellant did receive training materials and participated in one physical training session. The appointing authority now states that it was actually the second day that the appellant failed to return. The appointing authority explains that a Lieutenant made a home visit to try to speak with the appellant and encourage him to return, but the appellant declined and resigned the next day. The appointing authority acknowledges that the timeline it originally submitted to this agency was not accurate, but it insists that the appellant's actions were still immature, irresponsible, and unprofessional and constituted an unsatisfactory employment record.²

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows for the removal of an individual from an eligible list who has a prior employment history that relates adversely to the position sought. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

While the Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel, a review of the record in this matter indicates that upholding the appellant's removal from the subject eligible list on the basis that he has an unsatisfactory employment record is unwarranted at this stage. In this regard, the appointing authority's account of events notably changed in response to the instant appeal. Specifically, the account shifted from stating that the appellant did not show up on his *first* day of work to acknowledging that he participated in a physical training session but that he did not return on his *second* day. Additionally, the appellant's separation was recorded as a resignation in good standing. Further, there is no substantive evidence that the appointing authority served a copy of its response on the appellant. Accordingly, based on the totality of the record in this matter, the appellant has met his burden of proof, and it is appropriate to restore his name to the subject eligible list. Since the M0072D eligible

² The Commission received no substantive evidence that the appointing authority served a copy of its response on the appellant as required. See *N.J.A.C.* 4A:2-1.1(d)1 (each party required to serve copies of all materials submitted on all other parties).

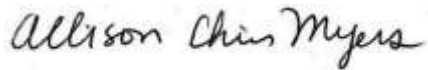
list expired on November 9, 2023, it is appropriate to revive that list at the time of the next certification to allow the appellant to be considered for prospective appointment.³

ORDER

Therefore, it is ordered that this appeal be granted and the eligible list for Police Officer (M0072D), Lakewood be revived in order for Muhammed Kangal to be considered for appointment at the time of the next certification for prospective employment opportunities only.

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 17TH DAY OF JANUARY, 2024



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³ The Commission acknowledges the appellant's suggestion that his religion played a role in the removal of his name from the eligible list. The Commission notes that it generally lacks jurisdiction over discrimination complaints in local service. See *N.J.A.C. 4A:7-1.1(g)*. As such, this decision should not be construed as precluding the appellant from filing a complaint with the New Jersey Department of Law and Public Safety's Division on Civil Rights, the U.S. Equal Employment Opportunity Commission, or both if he believes discrimination has occurred.