

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200

Boston, MA 02114

(617) 979-1900

KELLY CHUILLI,

Appellant

v.

BRIDGEWATER POLICE DEPARTMENT,

Respondent

DOCKET NUMBER:

G2-23-179

Appearance for Appellant:

Allison MacLellan, Esq.
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Quincy, MA 02169

Appearance for Respondent:

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Commissioner:

Paul M. Stein

SECOND AMENDED DECISION ON MOTION FOR RECONSIDERATION

On September 19, 2023, the Appellant, Kelly Chuilli, then a police sergeant with the Town of Bridgewater (Bridgewater) Police Department (BPD), appealed to the Civil Service Commission (Commission), pursuant to G.L. c. 31, § 2(b), from her bypass by the BPD Police Chief, the Appointing Authority, for promotion to the position of police lieutenant. The parties agreed that the Appellant's appeal must be allowed but disagreed on the underlying reasons for such and the relief to be awarded.

By Decision dated February 6, 2025 (the Decision), pursuant to its authority under Chapter 310 of the Acts of 1993, the Commission vacated the permanent promotional appointment of the

lower-ranked candidate (John J. Hennessey III); retroactively converted Hennessey's permanent promotion to *temporary* lieutenant; and ordered the BPD, forthwith, to begin a new, merit-based process to fill the permanent lieutenant position. To allow the parties the opportunity to reach a mutual agreement on an alternate manner of resolving the matter, the Commission deferred the effective date of the decision until March 6, 2025.

Although the parties failed to reach an agreement, on March 6, 2025, the BPD unilaterally filed its own motion for reconsideration, asking the Commission to modify the ordered relief based on an action taken by the BPD since the issuance of the Commission's decision. Specifically, the BPD, on its own initiative, promoted the Appellant to permanent lieutenant, effective March 6, 2025, resulting in the BPD now having three, instead of two, permanent lieutenants. For this reason, the BPD asks that the Commission modify the relief and leave the prior permanent promotion of the lower-ranked candidate undisturbed.

The Appellant opposes the BPD's motion for reconsideration and seeks a different modification of the Decision. She cites the loss of pay and benefits associated with being unlawfully bypassed for promotion to lieutenant in July 2023. She argues that her promotional appointment date to permanent lieutenant should be retroactive to July 2023 and that Hennessey's promotion should be vacated and his work as a lieutenant since July 2023 be deemed a temporary appointment. The Appellant also argues for retroactive pay and for the Commission to order the payment of \$25,000 in supplemental attorneys' fees based on her assertions of egregious misconduct by the BPD associated with the bypass.

Following a remote status conference with the parties on March 12, 2025, the Commission requested and received additional information from the Appellant on March 21, 2025, and from the BPD on March 27, 2025. By an Amended Decision dated March 20, 2025, the Commission deferred the effective date of the Decision to April 18, 2025. The Commission also requested that

the BPD inform Lieutenant Hennessey (the candidate promoted to lieutenant in July 2023) of the pending motion for reconsideration and inform him of the option to seek to intervene or participate in the proceedings; however, the Commission received no such request to intervene.¹

ANALYSIS

Pursuant to 801 C.M.R. 1.01(7)(l), a motion for reconsideration of the Decision “must identify a clerical or mechanical error in the decision or a significant factor that the [Commission] or the Presiding Officer may have overlooked in deciding the case.” The promotion of the Appellant is such a significant factor. Moreover, the Commission deferred the effective date of the Decision to provide time for an alternative solution from the relief that the Commission ordered in the Decision. I have carefully reviewed the parties’ arguments, including the statements made at a remote status conference. I have concluded that reconsideration of the Decision is appropriate, albeit different in form from what either party has proposed.

First, as stated in its [Decision](#), the actions of the Appointing Authority here are troubling. At first blush, however, it would appear, at least facially, that the BPD has moved to remediate, in part, the harm done to the Appellant, by finally promoting her to permanent lieutenant as of March 6, 2025. Based on the specific facts of this appeal, however, I have concluded that such relief simply does not go far enough. It is not disputed that the Appellant was unlawfully bypassed and the overwhelming evidence shows that, but for a deeply flawed process, the Appellant should have been promoted to BPD police lieutenant in July 2023. The Appellant, at what I believe was

¹ The Appellant was ranked first on the eligible list for BPD lieutenant; George Zanellato was ranked second; and John Hennessey III was ranked third. Thus, by promoting Hennessey in July 2023, the BPD bypassed two candidates: the Appellant and Zanellato. The Appellant filed a timely bypass appeal with the Commission; Zanellato did not contest his bypass in 2023, but recently filed a bypass appeal with the Commission on March 14, 2025 (G2-25-070) as well as a separate request for investigation into the BPD’s promotional process on March 16, 2025. (I-25-071). Those matters are pending and will be addressed separately by the Commission.

her great peril, did file a timely appeal with the Commission and I have concluded that this appeal justifies the Commission's exercise of its authority to tailor relief deemed appropriate to remediate the harm done to her civil service rights. See Kelley v. City of Boston, 2022 WL 2192189 (Suffolk Sup. Ct. 2022) (affirming Commission's award of retroactive pay); Blanchette v. City of Methuen, 34 MCSR 431 (2021) (retroactive promotion and back pay in unlawful bypass). See also, Mulhern v. Civil Service Comm'n, 57 Mass. App. Ct. 920 (2003) ("We have expressly noted that the commission has the authority to adjust appointment dates for remedial reasons", citing Dedham v. Dedham Police Assn., 46 Mass. App. Ct. 418, 421 n.3 [1999]). Thus, pursuant to that authority, the effective date of the Appellant's promotion to permanent BPD lieutenant shall be established as July 13, 2023, one day *prior* to the promotional appointment of John Hennessey to lieutenant. Further, the BPD shall, forthwith, pay to the Appellant the difference in base pay between sergeant and lieutenant from July 13, 2023 to March 6, 2025. This award effectively grants the core relief the Appellant is seeking.²

Second, I am persuaded that the status of Lieutenant Hennessey's promotion from permanent to temporary should stand, pending further investigation into an alleged plan to promote Sergeant Hennessey in order to clear the way to promote Lieutenant Hile to Captain. Although not proved by a preponderance of the evidence at the Commission hearing of this appeal, those allegations remain troubling. *If true*, the Commission should not hesitate to take further action against those responsible for that misconduct. In the interest of all parties, the Commission will proceed with a separate, independent, and expedited investigation of these allegations with all deliberate speed.

² To ensure clarity, and consistent with years of prior Commission decisions, this change in the promotional effective date has no impact on the Appellant's civil service seniority date, which is tied to an employee's date of hire. Further, the Commission lacks jurisdiction to interpret how this modified effective date will impact any rights the Appellant may have under the applicable collective bargaining agreement or benefits under Massachusetts retirement law.

Pending the outcome of that investigation, the status of Lieutenant Hennessey's promotion shall remain temporary.

Third, an appellant who prevails in an appeal to the Commission is entitled to statutory costs and attorneys' fees as prescribed by Section 45 of Chapter 31. In addition, the statute now permits the commission to award "additional reasonable attorneys' fees and costs up to \$25,000 to an appellant who prevails in an appeal brought under this chapter, upon an express finding of either *bad faith* on the part of the appointing authority or an *egregious* or *willfully repeated* violation of this chapter, unless special circumstances would render such additional award unjust." G.L. c. 31, § 45, as amended by St. 2024, c. 238, § 138 (*emphasis added*).

The Appellant's request for supplemental attorneys' fees presents a very close call. The [Decision](#) did not make an express finding of bad faith or egregious or willfully repeated violation of civil service law. However, as the Commission's Decision concluded, the BPD's bypass of the Appellant was seriously flawed, both procedurally and substantively. I am also deeply concerned by reports from the Appellant from which one might infer that the Appointing Authority promoted the Appellant to the position of lieutenant *in name only*, and has not assigned properly corresponding duties and responsibilities associated with that position, or otherwise provided assurances of proper status as a bona fide lieutenant, as a subterfuge to continue to undermine the Appellant's career opportunities or permit reversion of her status in the future without just cause.

The Commission has not acted to award supplemental attorneys' fees since the recent amendments to Section 45 became effective. Given that this matter is one of first impression, the Commission will allow the Appellant to file a separate fee petition setting forth the specific fees and costs she actually incurred, documenting the reasonableness of those fees and costs, and providing sufficient facts, by affidavit or otherwise, for the Commission to make an express finding under Section 59 that would warrant allowance of supplemental attorneys' fees and costs.

The BPD will be allowed to file an opposition including, without limitation, the specific facts, by affidavit or otherwise, of any special circumstances that would render an award of supplemental attorneys' fees and costs unjust. Upon receipt of the Appellant's fee petition and the BPD's opposition, the Commission will take the fee petition under advisement, then hold a hearing, which may include taking additional evidence and testimony, or take any other action as may be appropriate pursuant to G.L. c. 31, § 77 or Chapter 310 of the Acts of 1993.

CONCLUSION

For the reasons stated above, the Decision dated February 6, 2025, is hereby further amended by deleting the third paragraph of the Conclusion on pages 23 and 24 of the [Decision](#) and substituting therefor the following:

Pursuant to the powers of relief inherent in Chapter 310 of the Acts of 1993 and G.L. c. 31, § 77, the Commission ORDERS that the Massachusetts Human Resources Division and/or the Bridgewater Police Department (BPD) in its delegated capacity take the following steps:

1. The permanent promotion of the Appellant, Kelly Chuilli, to the position of BPD Police Lieutenant is deemed effective as of July 13, 2023.
2. The BPD shall, forthwith, pay to the Appellant the difference in base pay between sergeant and lieutenant from July 13, 2023 to March 6, 2025.
3. The permanent appointment of John J. Hennessey, III to the position of BPD Police Lieutenant is converted from a "permanent" to "temporary," appointment, retroactive and effective as of July 14, 2023. Such temporary status shall continue, subject to further order of the Commission as may be taken pursuant to a further independent investigation by the Commission (I-25-106) into an alleged plan to orchestrate, to the potential detriment of others, the 2023 promotional processes for BPD Lieutenant and Captain and the role, if any, played by Lieutenant Hennessey, among others.

4. On or before May 1, 2025, the Appellant may file a petition for supplemental attorney's fees and costs, setting forth the specific fees and costs she actually incurred, documenting the reasonableness of those fees and costs, and providing sufficient facts, by affidavit or otherwise, for the Commission to make an express finding under Section 59 that would warrant allowance of supplemental attorneys' fees and costs.
5. On or before May 15, 2025, the BPD may file an opposition to the Appellant's petition for supplemental attorneys' fees and costs, including, without limitation, the specific facts, by affidavit or otherwise, of any special circumstances that would render an award of supplemental attorneys' fees and costs unjust.
6. The effective date of this Second Amended Decision is April 18, 2025, and shall become final for the purposes of Section 44 of Chapter 31 on April 18, 2025.

Civil Service Commission

/s/ Paul M. Stein

Paul M. Stein, Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey, McConney, and Stein Commissioners) on April 17, 2025.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, §44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, §14, in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice:

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Richard F. Massina, Esq. (for Respondent)

Sheila Gallagher, Esq. (HRD)

Regina Caggiano (HRD)