

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

100 Cambridge Street, Suite 200
Boston, MA 02114
(617) 979-1900

RE:

Request for Relief filed by
Town of East Bridgewater
regarding police officers
Paul Arnstein and Matthew
Monteiro

Case No.: E-24-147

**ORDER OF RELIEF UNDER
CHAPTER 310 OF THE ACTS OF 1993**

On August 22, 2024, the Town of East Bridgewater (Town) filed a request for relief with the Civil Service Commission (Commission), asking the Commission to grant civil service permanency to East Bridgewater police officers Paul Arnstein and Matthew Monteiro.

On October 1, 2024, I held a remote pre-hearing conference attended by police officers Arnstein and Monteiro, the Town's Police Chief, co-counsel for the Town and counsel for the state's Human Resources Division (HRD).

Based on the submission of the Town and the discussion at the pre-hearing conference, it is undisputed that the Town appointed both police officers in violation of the civil service law and rules as the Town disregarded an existing civil service eligible list of candidates for East Bridgewater Police Officer and overlooked active civil service reserve police officers employed by the Town. Rather, according to the current Police Chief, the former Chief relied on advice from counsel that non-civil service appointments could be made by the Town given that a home rule petition was *pending* before the Legislature, seeking to exempt the Town from the civil service law and rules.

As discussed at the pre-hearing conference, Section 73 of the civil service law states in relevant part that:

If, in the opinion of the administrator [HRD], a person is appointed or employed in a civil service position in violation of the civil service law and rules, the commission or the administrator shall mail a written notice of such violation to such person and to the appointing authority. The commission or the administrator shall then file a written notice of such violation with the treasurer, auditor or other officer whose duty it is to pay the salary or compensation of such person or to authorize the drawing, signing or issuing of any warrant for such payment.

The payment of any salary or compensation to such person shall cease at the expiration of one week after the filing of such written notice with such treasurer, auditor or other officer. No such treasurer, auditor or other officer shall pay any salary or compensation to such person, or draw, sign or issue, or authorize the drawing, signing or issuing of any warrant for such payment, until the legality of the appointment or employment is duly established.

While the Town violated the civil service law and rules by appointing these two police officers, I have also considered that:

1. Both police officers have previously taken and passed a civil service examination.
2. Both police officers have previously passed a Physical Abilities Test (PAT) for prior positions in other departments.
3. Both police officers have completed a full-time Police Academy.
4. Officer Monteiro, prior to his appointment, served as a civil service police officer for the Town of West Bridgewater.
5. Officer Arnstein, prior to his appointment, served as a campus police officer at UMASS Boston.

Further, I have also considered that the Town has agreed to take the following remedial actions:

1. Forthwith, the Town shall comply with all civil service law and rules.
2. The Town has agreed that its next two appointments of full-time, permanent police officer will be made from names on the eligible list or reserve roster in place at the time of the appointments of Arnstein and Monteiro respectively in compliance with all other civil service law and rules and any candidate bypassed for appointment for these two vacancies shall be entitled to bypass appeal rights and remedies, regardless of whether the Town successfully opts out of the civil service system, either through adoption of a home rule petition or by any other means.

For the above reasons, the Commission, pursuant to its authority under Chapter 310 of the Acts of 1993, hereby orders that East Bridgewater Police Officers Paul Arnstein and Matthew Monteiro shall be deemed permanent civil service police officers in the Town of East Bridgewater effective as of the date that they take and pass a Physical Abilities Test (PAT) administered by HRD.^{1,2}

¹ As part of its failure to comply with civil service law, the Town also failed to have these two officers complete a new PAT, erroneously relying on PATs that were completed years ago by the officers in order to secure their prior positions in other departments.

Through the above-stated corrective and remedial actions, and upon the vote of the Commission memorialized below, the legality of the employment of Officers Monteiro and Arnstein is hereby established for purposes of G.L. c. 31, § 73.³

Nothing in this order precludes the Commission from initiating an investigation related to civil service appointments and promotions in the Town of East Bridgewater should the Commission become aware of further violations of the civil service law and rules by the Town.

SO ORDERED.

Civil Service Commission

/s/ Christopher C. Bowman
Christopher C. Bowman
Chair

By vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney and Stein, Commissioners [Markey - Absent]) on October 17, 2024.

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 to:

² The Town shall be responsible for any costs related to the PAT and shall pay both officers their regular or overtime wages, as applicable, for any time spent taking or preparing for the PAT.

³ I have not overlooked HRD's well-founded objections to the issuance of an order of this nature and their argument that the statute requires these appointments be rescinded, with relief only available to the officers by filing a petition with the Supreme Judicial Court. Although Chapter 310 of the Acts of 1993 gives the Commission broad authority to issue the relief being ordered here "notwithstanding" the provisions of Chapter 31, the Commission concurs with HRD that, should the Commission issue relief, as it doing here, the civil service seniority dates should not be retroactive, as requested. Rather, the civil service seniority dates for these officers, as referenced above, are being established as the date that the officers pass a required PAT.

Paul Arnstein (Appellant)
Matthew Monteiro (Appellant)
David K. Kouroyen, Jr., Esq. (for Town of East Bridgewater)
Ashlee Logan, Esq. (HRD)