

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

BRENDAN ELLIS,
Appellant

v.

TOWN OF ASHLAND,
Respondent

Case No.: E-07-390

**DECISION ON JOINT REQUEST FOR RELIEF UNDER
CHAPTER 310 OF THE ACTS OF 1993**

The Appellant, Brendan Ellis, filed this appeal with the Civil Service Commission pursuant to G.L. c.31, § 2(b) and Chapter 310 of the Acts of 1993.

The Town of Ashland (“Town”) promoted the Appellant to the position of full-time permanent police sergeant on July 19, 2007. It is undisputed that the Appellant has performed the duties of a sergeant for the Town since this date.

The Town, however, did not submit the request for a certification from the state’s Human Resources Division (HRD) to facilitate this promotion until August 7, 2007. On August 16, 2007, HRD issued Certification No. 270823 to the Town. It is undisputed that the Appellant was ranked first on the above-referenced certification.

The Appellant, with the assent of the Town, is seeking an appointment date of July 19, 2007, the day he began performing the duties of sergeant. HRD opposes the Appellant’s request, arguing that an appointment date can not precede the date upon which the certification was issued by HRD.

Given the facts in this particular case, the Commission determines that the Appellant was prejudiced through no fault of his own and his appointment date as sergeant should be established as July 19, 2007.

This request is being allowed based solely on the unique set of facts pertaining to this case and the parties in this case and others should not construe this order to be precedent-setting in other cases.

The Commission, pursuant to the powers of relief inherent in Chapter 534 of the Acts of 1976 as amended by Chapter 310 of the Acts of 1993, orders the Human Resources Division to take the following action:

The Civil Service Commission directs the Human Resources Division to establish the Appellant’s appointment date as sergeant in the Town of Ashland as July 19, 2007.

Civil Service Commission

Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Guerin, Henderson, Marquis and Taylor, Commissioners) on April 3, 2008.

A True Record. Attest:

Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. The motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:

Brendan Ellis (Appellant)
Scott C. Rohmer, Police Chief (for Appointing Authority)
Martha O'Connor, Esq. (for HRD)