

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

**SUFFOLK, ss.**

**One Ashburton Place – Room 503  
Boston, MA 02108  
(617) 979-1900**

**BLAISE LALLI,**

*Appellant*

**CASE NO. G1-20-173**

v.

**MASSACHUSETTS  
ENVIRONMENTAL POLICE,**  
*Respondent*

Appearance for Appellant:

Blaise Lalli, Pro Se

Appearance for Respondent:

Benjamin Goldberger, Esq.  
General Counsel, Massachusetts Secretary of  
Energy and Environmental Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114

Commissioner:

Paul M. Stein

**DECISION**

On December 2, 2020, the Appellant, Blaise Lalli, appealed to the Civil Service Commission (Commission), pursuant to G.L. c. 31, § 2(b), to contest his bypass for appointment as an Environmental Police Officer A/B (EPO A/B) with the Massachusetts Environmental Police (MEP).<sup>1</sup> A pre-hearing conference was held via remote videoconference (Webex) on January 26, 2021, and a full hearing was held via remote videoconference (Webex) on March 31, 2021, which was recorded via Webex.<sup>2</sup> Thirteen (13) exhibits (*Resp.Exhs.1 through 11; App.Exhs.1 & 2*) were

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<sup>1</sup> The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

<sup>2</sup> A link to the Webex audio/video recording of the full hearing was provided to the parties. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal becomes obligated to use the recording to supply the court with the stenographic or other written transcript of the hearing to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion.

received in evidence. Neither party chose to file a proposed Post-Hearing Decision. For the reasons stated below, Mr. Lalli's appeal is denied.

### **FINDINGS OF FACT**

Based on the Exhibits entered into evidence and the testimony of the following witnesses:

*Called by the Appointing Authority:*

- MEP Lieutenant James Cullen

*Called by the Appellant:*

- Blaise Lalli, Appellant

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes these facts:

1. The Appellant, Blaise Lalli, resides in Bourne, MA. He has earned approximately 40 credits toward a bachelor's degree in Criminal Justice. He is a qualified military veteran, having served honorably with the U.S. Air Force, assigned to Security (Military Police) duties. He has approximately three years of recreational boating experience. (*Resp.Exh.4; App.Exhs.1&2 Testimony of Appellant*)

2. The Appellant has been employed as a permanent, full-time Police Officer with the Wareham Police Department (WPD) for approximately 14 years. As a WPD police officer, on occasion, Officer Lalli has been called upon to respond to incidents involving environmental issues, such as animal control, improper use of off-road vehicles and illegal dumping. Some incidents involve assisting the MEP and the Wareham DNR (Department of Natural Resources), a municipal level environmental enforcement unit. (*App.Exh.1; Testimony of Appellant*)

3. Officer Lalli took and passed the civil service examination for EPO A/B and his name appeared ranked #6 on Certification #07429, dated July 20, 2020, issued to the MEP by the Massachusetts Human Resources Division (HRD), from which MEP eventually hired seven (7) candidates, of which six (6) were ranked below Mr. Lalli. (*Stipulated Facts*)

4. The MEP is a law enforcement agency of approximately 90 officers whose primary mission includes protection of the environment and natural resources through enforcement, education and outreach, with jurisdiction covering the entire Commonwealth coexistent with the Massachusetts State Police, as well as in the state's territorial waters (three mile limit) and "customs waters" (up to twelve miles offshore). (*Testimony of Lt. Cullen; Administrative Notice [https://www.mass.gov/service-details/the-massachusetts-environmental-police-our-mission]*)

5. Because the unique focus of the MEP on protection of the Commonwealth's environment and natural resources covers a range of specialized and technical subjects (e.g., fish and wildlife, protection of endangered species and laws regulating commercial marine vessels, recreational boating and recreational off-road vehicles [ORVs]), the minimum entrance requirements for the position of EPO A/B are tailored to fit this mission. In particular, in addition to a high school diploma, applicants must have the following minimum experience or education:

- At least two years of full-time, or equivalent part-time, professional or para-professional experience in wildlife or fisheries conservation or management, natural resources conservation or management, biological or environmental science, forestry, ecology, marine science, conservation law enforcement or related field, or any equivalent combination of such experience and the substitutions below.
- An Associate's degree in environmental science, biology, oceanography, ecology, natural resources management, wildlife management, fisheries management, forestry, conservation law enforcement or related field, may be substituted for one year of the required experience on the basis of two years of education\* for one year of experience.
- A Bachelor's or higher degree in environmental science, biology, oceanography, ecology, natural resources management, wildlife management, fisheries management, forestry, conservation law enforcement or related field, may be substituted for the required experience on the basis of two years of education for one year of experience.
- One year of education equals 30 semester hours or its equivalent. Education completed toward a degree will be prorated on the basis of the proportion of the requirements actually completed."

(*Resp. Exhs.1 & 3; Testimony of Lt. Cullen*) (emphasis added)

6. The MEP's minimum entrance requirements are established by approval from HRD, with input from the various stakeholders (e.g., Department of Fish & Game, Department of

Conservation & Recreation, Department of Environment Protection). (*Administrative Notice [G.L.c.31, §5 & §18]*)

7. The experience that meets these entrance requirements includes such full-time jobs as a Harbormaster, Park Ranger, Fish & Game Warden, Coast Guard duty and Marine Fisheries scientists and technicians. It also may include part-time, seasonal or volunteer work as an assistant Harbormaster or Shellfish Constable, as well as employment or volunteer work for the Division of Fisheries & Wildlife, the Audubon Society or similar conservation organizations. (*Testimony of Lt. Cullen*)

8. Presently, and historically, a Criminal Justice college degree and/or the work of a typical municipal police officer have not been considered acceptable education and/or experience by the MEP to meet the entrance requirements for EPO A/B. The few exceptions are some coastal municipalities that operate their own Marine Units, which do handle some of the same type of boating safety issues as the MEP. For a brief period, a prior MEP Colonel did decide to hire some officers with traditional law enforcement experience only, with mixed results. According to Lt. Cullen, of the approximately twenty officers hired on that basis, only about one in five (20%) became successful EPOs, with most of the others tending to gravitate back to traditional police work (traffic enforcement, personal and property crimes, etc.) rather than devote their full time and attention to conservation and environmental protection. (*Testimony of Lt. Cullen*)

9. The MEP processes all EPO A/B candidates through an initial screening interview before a five-member panel of MEP senior officers and HR management to provide each candidate with an opportunity to establish they met the necessary minimum entrance requirements. (*Resp.Exhs.1 through 3; Testimony of Lt. Cullen*)

10. Officer Lalli presented the panel with a one-page letter outlining his experience as a WPD Police Officer, in which he summarized his environmental related work as follows:

“During my years of service, I have responded to recreational off-road vehicle complaints, hunting complaints, sick or injured wild animals, illegal dumping complaints, animal control issues, and waterways emergencies. I have also assisted officers of the Massachusetts Environmental Police as a backup officer on various occasions over the years, most notably, as they attempted to combat elver poaching”.

*(Resp.Exh. 4)*

11. Officer Lalli also provided the panel with a letter of recommendation from the Director of the Wareham DNR (who is also the Wareham Harbormaster), noting that Officer Lalli has worked with the DNR “many times” on “various calls involving marine and environmental incidents, shellfish enforcement, orv [off-road vehicle] enforcement and animal control issues of both domestic and wildlife.” *(Resp.Exh.4)*

12. Following his appearance before the screening interview panel, on the unanimous recommendation of the panel, the MEP determined that Officer Lalli did not possess the necessary two years of full-time experience or educational substitute necessary to meet the minimum entrance requirements. *(Resp.Exhs.2 & 4; Testimony of Lt. Cullen)*

13. The MEP counts both full-time and part-time experience working in a related environmental field, using approximately 2000 hours of part-time experience as equivalent to one year of full-time experience. The six lower ranked candidates that were hired over Officer Lalli provided the following evidence that met the MEP’s Minimum Entrance Requirements:

- Candidate A – 12 years with the US Coast Guard as a certified boarding officer
- Candidate B – 4 years of experience as the Falmouth Town Arborist and 5 years of experience as the Falmouth Assistant Harbormaster
- Candidate C-- Over 6,000 documented aggregate hours employed as a commercial lobsterman, work in aquacultures and US Coast Guard duty
- Candidate D – 8 years with the US Coast Guard as a certified boarding team member (BTM), including 30+ search and rescue cases and LNG tanker escorts

- Candidate E – Bachelor of Science degree in Environmental Studies
- Candidate F – Master of Science degree in Environmental Policy
- Candidate G – Bachelor of Science degree in Environmental Science & Geology (earned while employed as an East Bridgewater Police Officer)

*(Exhs.5 through 11; Testimony of Lt. Cullen)*

14. Officer Lalli’s submission to the MEP panel did not contain any specific breakdown of his work on environmental issues as a WPD police officer. At the Commission hearing, he produced an extensive set of incident reports covering the period from 2005 through 2020, showing the work that he had performed as a WPD officer during that period in response to calls involving environmental issues. That documentation showed the following:

- For the immediately preceding three years (2018 to 2020), Officer Lalli responded to a total of 21 calls which he identified as environmentally related, or about 6 calls per year, on which he logged approximately 90 minutes of time, in the aggregate, from dispatch to clearing the call.
- In the 11 prior years of service with the WPD, Officer Lalli typically responded to 8 calls per year that he identified as environmentally related.

*(App.Exh.1; Testimony of Appellant & Lt. Cullen)*

15. According to Lt. Cullen, an EPO can be expected to respond to approximately 4 to 5 environmental calls per shift. Unlike a typical municipal police department, which operates 24/7 with a patrol supervisor and duty officer assigned to supervise each shift, the typical EPO works with little regular supervision or back-up. Lt. Cullen, for example, who supervises an MEP region from the Rhode Island border to Cape Cod, has one Sergeant under his command, to supervise a total staff of 5 EPOs. *(Testimony of Lt. Cullen)*

16. By letter dated September 14, 2020, MEP Colonel Shaun Santos informed Officer Lalli that he was bypassed for appointment due to his failure to meet the minimum entrance requirements for the position of EPO A/B. (*Exh.2*)

17. This appeal duly ensued. (*Claim of Appeal*)

### **APPLICABLE CIVIL SERVICE LAW**

The core mission of Massachusetts civil service law is to enforce “basic merit principles” for “recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills” and “assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.” G.L. c. 31, § 1. See, e.g., Massachusetts Ass'n of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, 259, (2001); MacHenry v. Civil Serv. Comm'n, 40 Mass. App. Ct. 632, 635 (1995), rev. den., 423 Mass. 1106 (1996).

Basic merit principles in hiring and promotion calls for regular, competitive qualifying examinations, open to all qualified applicants, from which eligible lists are established, ranking candidates according to their exam scores, along with certain statutory credits and preferences, from which appointments are made, generally, in rank order, from a “certification” of the top candidates on the applicable civil service eligible list, using what is called the 2n+1 formula. G.L. c. 31, §§ 6 through 11, 16 through 27; Personnel Administration Rules, PAR.09. In order to deviate from that formula, an appointing authority must provide specific, written reasons – positive or negative, or both, consistent with basic merit principles, to affirmatively justify bypassing a higher ranked candidate in favor of a lower ranked one. G.L. c. 31, § 27; PAR.08(4)

A person may appeal a bypass decision under G.L. c. 31, § 2(b) for de novo review by the Commission. The Commission’s role is to determine whether the appointing authority had shown, by a preponderance of the evidence, that it has “reasonable justification” for the bypass after an

“impartial and reasonably thorough review” of the relevant background and qualifications bearing on the candidate’s present fitness to perform the duties of the position. Boston Police Dep’t v. Civil Service Comm’n, 483 Mass. 474-78 (2019); Police Dep’t of Boston v. Kavaleski, 463 Mass. 680, 688-89 (2012); Beverly v. Civil Service Comm’n, 78 Mass. App. Ct. 182, 187 (2010); Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-28 (2003).

“Reasonable justification . . . means ‘done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law’”. Brackett v. Civil Service Comm’n, 447 Mass. 233, 543 (2006); Commissioners of Civil Service v. Municipal Ct., 359 Mass. 211, 214 (1971), and cases cited. See also Mayor of Revere v. Civil Service Comm’n, 31 Mass. App. Ct. 315, 321 (1991) (bypass reasons “more probably than not sound and sufficient”)

Appointing authorities are vested with a certain degree of discretion in selecting public employees of skill and integrity. See, e.g., City of Cambridge v. Civil Service Comm’n, 43 Mass. App. Ct. 300, 303-305, rev. den., 428 Mass. 1102 (1997) (*emphasis added*) However, the governing statute, G.L. c. 31, § 2(b), gives the Commission’s de novo review “broad scope to evaluate the legal basis of the appointing authority's action” and it is not necessary for the Commission to find that the appointing authority acted “arbitrarily and capriciously.” Id.

## **ANALYSIS**

The MEP has shown by a preponderance of the evidence that it was reasonably justified to bypass the Appellant for appointment as an EPO A/B on the grounds that he did not possess the minimum entrance requirements specified for the position by MEP and approved by HRD. These requirements call for education and experience directly related to the subject of natural resource and environmental protection and reasonably related to the requirements of the job. They are

uniformly applied to all candidates (save for a brief, less than successful experiment some years ago that enabled a few candidates to be hired whose qualifications were limited to general police work). The Commission has made clear that, absent proof that job requirements are arbitrary or unequivocally irrelevant to the performance of the duties required of the position, it will defer to the interpretation given to those requirements by the appointing authority, who is best situated and informed on those matters. See Harrell v. Massachusetts Environmental Police, 33 MCSR 30 (2020). See also Graham v. Department of Conservation & Recreation, 31 MCSR 337 (2018) (DCRs definition of “major park” and other terms); Trubiano v. Department of Conservation & Recreation, 31 MCSR 298 (2018) (definition of “major recreational area” and “heritage park”).

In the case of Officer Lalli, he had not earned a college degree and his limited experience as a WPD police officer falls well short of the two years (4,000+ hours) of equivalent experience in environmentally related work that MEP deems necessary to meet the minimum entrance requirements. I recognize that Officer Lalli believes his high level of achievement on the EPO A/B civil service exam, together with his honorable military service, should be considered in assessing his qualifications to become an EPO. He certainly deserves praise for those achievements but, unfortunately, they do not change the terms specified by HRD and MEP as the minimum entrance requirements for the position of an EPO. The Commission is constrained to apply those requirements as written.

In sum, Officer Lalli has many attributes that would serve him well in the job of an EPO. The path remains open for him to document in the future that he has achieved the appropriate two years of experience or earned an equivalent qualifying degree, as other candidates have done. At this time, however, the MEP has provided reasonable justification not to appoint him because he does not meet the minimum entrance requirements needed to qualify him for appointment.

## **CONCLUSION**

For the reasons stated herein, this appeal of the Appellant, Blaise Lalli, in Case No. G1-20-173, is ***denied***.

Civil Service Commission

*/s/Paul M. Stein*

Paul M. Stein, Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Camuso, Ittleman, Stein and Tivnan, Commissioners) on October 21, 2021

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)(1), 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:

Blaise Lalli (Appellant)

Benjamin Goldberger, Esq. (for Respondent)