

Whether such one year appointments were authorized under R.S. 40:149-2 or not, is not material to the issue as to whether the individuals concerned should have been placed in the classified service at the time of adoption of Civil Service. For at that time, whether their appointments were "at will" or valid term appointments, they were properly in the unclassified service under Civil Service Rule 7-2(t).

Since adoption of Civil Service, an ordinance creating a regular police department was passed. A classification survey based thereon was adopted, placing the police in the classified service, as are all police departments in municipalities covered by Civil Service. However, since this was done, subsequent to adoption of Civil Service, appointments to such positions would have to conform to Civil Service recruitment provisions. This was not done, and so individuals employed during this period acquired no Civil Service rights. The question is now moot in that the ordinance establishing a regular police department has been repealed. We offer no opinion as to the validity of making one year appointments under R.S. 40:149-2, although the cases of *Uffert v. Vogt*, 65 N.J.L. 621 (E. & A. 1901) affirming 65 N.J.L. 377 (Sup. Ct. 1900) and *Mathis v. Rose*, 64 N.J.L. 726 (E. & A. 1900) affirming 64 N.J.L. 45 (Sup. Ct. 1899) cast serious doubt on this point.

You are advised, however, that whether the Raritan Police are properly appointed for a term or to serve at the pleasure of the Township Committee, Civil Service Rule 7-2(t) provides that the positions be placed in the unclassified service.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DAVID LANDAU
Deputy Attorney General

DL:mc

AUGUST 28, 1957

HONORABLE AARON K. NEELD
State Treasurer
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-27

Re: Motor Fuels Tax Refund

DEAR MR. NEELD:

You have requested our opinion as to the eligibility of the Parking Authority of the City of Elizabeth, New Jersey, to obtain refund of the New Jersey motor fuels tax pursuant to R.S. 54:39-66(a). This section provides in part:

"Any person who shall use any fuels as herein defined for any of the following purposes:

(a) operating or propelling motor vehicles, motor boats or other implements owned or leased by the State and all the political subdivisions thereof, . . . and who shall have paid the tax for such fuels hereby required to be paid,

shall be reimbursed and repaid the amount of tax so paid upon presenting to the Commissioner an application for such reimbursement or repayment, in form prescribed by the Commissioner, . . .”

The Parking Authority of the City of Elizabeth was created by an ordinance adopted by the City of Elizabeth under the authority granted by the “Parking Authority Law”, N.J.S.A. 40:11A-1 et seq.

The Authority is expressly recognized as a political subdivision of the State by N.J.S.A. 40:11A-6 which provides in part:

“The authority shall constitute a public body corporate and politic and a political subdivision of the State with the same territorial boundaries as the boundaries of the municipality or county creating the authority, exercising public and essential governmental functions, . . .”

Accordingly, you are advised that as a political subdivision of this State the Parking Authority of the City of Elizabeth is entitled to the refund in question pursuant to the statutes above cited.

Very truly yours,

GROVER C. RICHMAN, JR.
Attorney General

By: DONALD M. ALTMAN
Deputy Attorney General

DMA :ccm

AUGUST 30, 1957

HONORABLE FREDERICK J. GASSERT, *Director*
Division of Motor Vehicles
State House
Trenton, New Jersey

MEMORANDUM OPINION—P-28

DEAR DIRECTOR GASSERT:

We have your request for an opinion concerning an Unsatisfied Claim and Judgment Fund assessment or fee against a New Jersey resident car owner presently stationed in a foreign country, who upon renewal of his New Jersey motor vehicle registration, presents evidence that he has liability insurance meeting all of the other requirements of the statute except for the fact that the insuring company is not authorized to do business in New Jersey. The pertinent sections of the Unsatisfied Claim and Judgment Fund Law provide as follows:

R.S. 39:6-62. “Definitions

* * * ‘Unsatisfied Claim and Judgment Fund Fee’ means the additional fee to be collected under this act as a contribution to the fund from the owner of a motor vehicle upon the registration thereof in this State. * * *

R.S. 39:6-63. “Creation of fund

For the purpose of creating the fund