

Fire Dept. Told to Hire 293 Blacks and Latinos

By MICHAEL S. SCHMIDT

A federal judge on Thursday ordered the City of New York to remedy years of discriminatory hiring in the Fire Department by giving hundreds of black and Latino applicants jobs, along with years of retroactive pay, and offering thousands of others some damages.

The judge, Nicholas G. Garaufis of Federal District Court in Brooklyn, said the city needed to compensate minority applicants who took discriminatory entrance exams, which were used from 1999 to 2002. He also said the city must overhaul how it hires new firefighters.

Judge Garaufis said that the roughly 7,400 minority applicants who took the tests in question should be able to apply for compensation from the city. Of that group, 293 applicants would be given priority hiring status and retroactive seniority.

The judge said the city should take immediate action, but the city, which has denied discriminating against minority applicants, has said it plans to appeal the order.

That makes it unclear just how soon the minority candidates might be hired. The judge said that out of every five entry-level hires, the Fire Department must agree to reserve two hires for black priority applicants and one for a Hispanic priority applicant until 293 qualifying minority candidates have been offered a position.

The ruling also called for the city to show that its current test is not discriminatory, and to develop a new method of determining how to rank applicants who pass the exam.

City officials would not say how much the city could be forced to pay as a result of the ruling. But Anjana Samant, a lawyer for the Center for Constitutional Rights, which represented the plaintiffs, estimated the city could have to pay “tens of mil-

lions of dollars, just for back compensation.”

Judge Garaufis also indicated that he could appoint a special master or monitor to help oversee putting the remedies into effect.

The judge’s order came a week

A judge wants immediate action, but the city will appeal.

after he ruled that the city had intentionally discriminated against black applicants by continuing to use an entrance exam that it had been told put them at a disadvantage.

Last week’s decision, which was made in favor of the Vulcan Society, a fraternal organization of black firefighters, was believed to be the first time the court had found that the city had intentionally discriminated against a large class of people. In pointed language, Judge Garaufis said the city looked the other way in regard to the discrimination and that it had “uniquely disabling effects.”

Thursday’s ruling also applied to Hispanic applicants in connection with claims brought by the Department of Justice.

The 293 number represents what the plaintiffs’ lawyers said was the total of additional blacks and Latinos who would have been selected during the time in question had those groups scored the same as whites on the exams.

Georgia Pestana, the chief of the labor and employment law division of the city’s Law Department, said in a statement on Thursday that “an initial examination suggests that today’s opinion does not fully address the complex constitutional issues presented — nor does it give proper weight to developments in this area of law.”

Ms. Pestana added, “The city is reviewing its options but will always place in the forefront not

only the need to obey the rule of law, but the need to ensure that only qualified individuals become New York City firefighters to properly protect New York City’s inhabitants.”

Judge Garaufis said in his order that “these forms of relief are simple in concept, but will be complex in execution.”

He added, “Achieving these basic aims will require ongoing oversight, attention to myriad details and resolution of disputes among the parties.”

Although the judge set a hiring standard to ensure that 293 blacks and Hispanics would be offered jobs as firefighters, he declined a request to put into effect hiring quotas for new applicants.

He said that over the long term, the elimination of discriminatory testing practices would be a more effective remedy.

Suzanne B. Goldberg, a law professor at Columbia University and an expert on employment discrimination, said Judge Garaufis’s rejection of quotas was only a minor setback for the Vulcan Society.

“The court says that hiring quotas are appropriate, but only in limited circumstances, and that they would provide only short-term relief here,” Ms. Goldberg said in a telephone interview. “The judge clearly outlined a serious response to the decades of discrimination, but it appears that he wants the city to remedy the problem without using quotas. This decision is not surprising, because quotas have a hot-button history.”

The judge said that many of the finer points can be resolved “by the parties cooperating in good faith.”

“The hope is that the city understands as of now that this is a valid ruling and there is nothing problematic about it and has to complete this process in good faith or risk contempt findings by the court until it can appeal the decision,” said Ms. Samant, the lawyer for the plaintiffs.

