

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

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

RE:

Tracking Number: I-16-139

Request by Harry Adolphe and 89 others to investigate “the Personnel Administrator’s delegation of his responsibility to MassDOT and HRD’s failure to remedy MassDOT’s refusal to extend these employees their appeal rights regarding requests for reclassification.”

Appearance for Petitioners:

James McDonagh, Esq.  
Paul Donohue, Eq.  
MOSES  
90 N. Washington Street: Suite 3  
Boston, MA 02114

Appearance for Human Resources Division:

Mark Detwiler, Esq.  
Human Resources Division  
One Ashburton Place: Room 211  
Boston, MA 02108

Appearance for MassDOT:

Peter Mimmo, Esq.  
MassDOT Labor Relations  
10 Park Plaza, Suite 3740  
Boston, MA 02116

Commissioner:

Christopher C. Bowman

**RESPONSE TO REQUEST FOR INVESTIGATION**

On August 8, 2016, the Petitioners filed a request for the Civil Service Commission to conduct an investigation into “the Personnel Administrator [HRD]’s delegation of his responsibility to MassDOT and HRD’s failure to remedy MassDOT’s refusal to extend to these [approximately 90] employees their appeal rights regarding requests for reclassification.”

On September 30, 2016, I held a conference to allow the Petitioners to show why the Commission should conduct an investigation. The conference was attended by counsel for MOSES, the union representing the Petitioners, counsel for HRD and counsel for MassDOT.

It is undisputed that, as part of a re-organization of transportation-related agencies in Massachusetts, MassDOT entered into a “Master Labor Integration Agreement” (Master Agreement) with various unions, including MOSES.

As part of the Master Agreement, the parties agreed that the job titles of all former employees of the Massachusetts Turnpike Authority and Massachusetts Port Authority would be reclassified to a state job title. The Master Agreement created a “Classification Review Committee” and “Classification Study” to facilitate the re-organization and ensure that employees are placed in the appropriate title. The Master Agreement was executed in anticipation that classification issues would be resolved promptly. Approximately six (6) years later, there has been no resolution to the classification issues.

Having anticipated a prompt resolution to the classification issues, the Master Agreement stated in relevant part:

“Beginning 30 days but not longer than 60 days following the completion of the [classification] study for a particular unit, any employee who believes that he/she is not classified appropriately or an employee who believes that he/she is not classified consistently with other unit employees who perform the same or similar work may file a classification appeal ... Employees seeking reclassification through c. 30 shall not be eligible to appeal under the provisions of this agreement.”

Since the parties have not resolved the classification issues referenced in the Master Agreement, however, no employee has been able to take advantage of the above-referenced expedited (non c. 30) classification appeal process.

Instead, approximately ninety (90) employees who are members of MOSES have, from 2010 to 2016, filed traditional classification requests under G.L. c. 30, § 49. Pursuant to Section 49

and “Hiring Guidelines” issued by the state’s Human Resources Division (HRD), MassDOT is responsible for processing these classification requests, with the employee having the right to appeal MassDOT’s determination to HRD and the Civil Service Commission.

With the classification issues referenced in the Master Agreement still unresolved, MassDOT has not processed the vast majority of these approximately ninety (90) classification requests. These employees now ask the Commission to initiate an investigation under G.L. c. 31, § 2(a) and order MassDOT to, forthwith, begin processing these classification requests.

As part of the conference before the Commission, the parties reported that the deadlock regarding the classification issues referenced in the Master Agreement is now pending before the Division of Labor Relations.

I have carefully considered the statements of counsel for the Petitioners, MassDOT and HRD as well as the somewhat unique circumstances presented with the provisions of the Master Agreement. Ultimately, there is no justification to effectively ignore classification appeals filed by individual employees. The Master Agreement does not prohibit the filing (and processing) of such appeals, which should begin no later than ninety (90) days from the issuance of this order. Should MassDOT fail to begin processing such appeals at that time, individual employees may file a request with the Commission to re-open this investigation at which time the Commission will consider the issuance of further orders.

SO ORDERED.

Civil Service Commission

/s/ Christopher Bowman  
Christopher C. Bowman  
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on December 8, 2016.

Notice:

James McDonagh, Esq. (for Petitioners)

Paul Donohue, Esq. (for Petitioners)

Peter Mimmo, Esq. (for MassDOT)

Mark Detwiler, Esq. (for HRD)