

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114
(617) 979-1900

Tracking No. I-23-085

Re: Request by Zouheir Alami to investigate matters related to his interest in being appointed to the MBTA Police Department as a Transit Police Officer

COMMISSION RESPONSE TO REQUEST FOR INVESTIGATION

Background

On June 27, 2023, the Petitioner (Zouheir Alami), filed a request for investigation with the Massachusetts Civil Service Commission (Commission), stating in part:

I was first invited to report to Transit Headquarters on March of last year. Upon my arrival, I signed a form, then I informed the recruiting Sargent that I am a current MBTA employee (19 yrs), and I was curious whether my pension would be transferable to the Transit Police Pension board? Both Sargents (sic) seemed doubtful, and suggested that I contact my union in order to get a clear answer. They also assured me that they will contact their pension board in an attempt to get an answer to my question. However, few months past and I didn't hear back from neither my union officials nor the Transit Sargents (sic). So, I decided to contact the MBTA Human Resources office for assistance on this matter, who then referred me to a Transit board director [] who was kind enough to contact me by phone and promised me that she would raise the question during the next board meeting, since she didn't have a definite answer for me. Not too long after our phone conversation, on Dec 9th, 2022, [she] emailed me the good news, confirming that the pension was transferable, she even included the board rule book, and highlighted the specific rule pertaining to the "Pension Transfer". However, when I called [] (Recruiting Sargent) to inform him that I was finally able to get an answer, he told me that they had to move on, hence, I would have to wait for the next opportunity. So, when I received another email from Civil Service Unit on May 17, 2023, I was extremely happy because I knew that my score was only going be valid until July 1st, thus, this was my final chance. So, I reported to Transit Headquarters to sign my name again, expressing my interest in joining the department, and was giving five days to complete the Application Packet, which I did, after few days of serious hustling,

determination, and one sleepless night. Two weeks later, which felt like a month, I received a letter from Deputy Chief Sean D. Reynolds informing me that the application could not be processed due to time constraints.

On July 25, 2023, I held a remote show cause conference which was attended by the Petitioner, counsel for the MBTA Transit Police Department (MBTA Police), and an MBTA Police representative.

Undisputed Facts

It is undisputed that the Petitioner, a 19-year employee of the MBTA (not MBTA Police), took and passed the civil service examination for MBTA Police Officer; his name appeared on an eligible list for this position, and, on two occasions (2022 and 2023), his name appeared on a certification of candidates eligible to be considered for appointment.

The Petitioner acknowledged at the show cause conference that he withdrew from the 2022 hiring cycle after being unable to obtain information in a timely manner regarding whether his creditable service would be transferrable if appointed as an MBTA Police officer.

In regard to the 2023 hiring cycle, the MBTA Police sought to appoint 25 candidates as MBTA Police Officers, and the Petitioner was among the candidates who indicated a willingness to accept appointment and began the application process. In June 2023, the MBTA Police notified the Petitioner and dozens of other candidates under consideration that, since the MBTA Police would be unable to make conditional offers of employment prior to the expiration of the eligible list on June 30, 2023, it was canceling the certification, with plans to request a new certification from the eligible list to be established on July 1, 2023. The Petitioner's name does not appear on that new eligible list as he opted not to sit for the next examination.

Arguments

The Petitioner argues that he is an aggrieved person for two reasons. First, he argues that he is aggrieved due to the delay in obtaining information regarding whether his creditable service was transferrable, which resulted in him withdrawing from the 2022 hiring cycle.

Second, he argues that the decision by the MBTA Police to cancel the 2023 certification was unprecedented and may be related to bias against him for reasons including his religion.¹

¹ According to the Petitioner, the MCAD recently issued a Lack of Probable Cause finding regarding a complaint he filed with that agency.

Commission’s Authority to Conduct Investigations

The Commission, established pursuant to G.L. c. 7, § 4I, is an independent, neutral appellate tribunal and investigative entity. Section 2(a) of Chapter 31 grants the Commission broad discretion upon receipt of an alleged violation of the civil service law’s provisions to decide whether and to what extent an investigation might be appropriate.

Further, Section 72 of Chapter 31 provides for the Commission to “investigate all or part of the official and labor services, the work, duties and compensation of the persons employed in such services, the number of persons employed in such services and the titles, ratings and methods of promotion in such services.”

The Commission exercises its discretion to investigate only “sparingly,” typically only when there is clear and convincing evidence of systemic violations of Chapter 31 or an entrenched political or personal bias that can be rectified through the Commission’s affirmative remedial intervention.

Commission Response

The decision to withdraw from the 2022 hiring cycle due to a lack of clarity regarding potential retirement eligibility was a voluntary decision made by the Petitioner and does not equate to him being an aggrieved person who warrants relief by the Commission.

The Petitioner’s suggestion that the MBTA Police’s decision to cancel the June 2023 certification, which impacted dozens of candidates, was attributable to some bias against him, is speculative -- and not supported by the evidence.

The Petitioner has not shown good cause why the Commission should initiate an investigation and I recommend that the Commission deny his request to do so.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chair

On August 10, 2023, the Commission (Bowman, Chair; McConney, Stein and Tivnan, Commissioners [Dooley-Absent]) voted to accept the recommendation of the Chair and deny the Petitioner’s request for investigation.

Notice:
Zouheir Alami (Petitioner)
Patrick Butler, Esq. (for MBTA Transit Police Department)