

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION

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

JOANNE ALLISON,
Appellant

G2-14-68

v.

CITY OF CAMBRIDGE,
Respondent

Appearance for Appellant:

Pro Se
Joanne Allison

Appearance for Respondent:

Philip Collins, Esq.
Collins, Loughran & Peloquin, P.C.
320 Norwood Park South
Norwood, MA 02062

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On March 18, 2014, the Appellant, Joanne Allison (Ms. Allison), filed a promotional bypass appeal with the Civil Service Commission (Commission), contesting her non-selection by the City of Cambridge (City) to the position of Parking Control Supervisor, an official service position.

On April 8, 2014, I held a pre-hearing conference at the offices of the Commission, which was attended by Ms. Allison, her husband, counsel for the City, and two representatives from the City. At the pre-hearing, the parties did not dispute that the individual who received the provisional promotion was a permanent civil service employee in the next lower title. As such, the City met the requirements of G.L. c. 31, § 15 regarding provisional promotions.

Further, since there is no eligible list in place for Parking Control Officer Supervisor, and the promotion cannot be made as a permanent promotion after certification, there is no bypass to appeal.

Notwithstanding the above, I informed Ms. Allison that, under rare circumstances, the Commission, can exercise its authority to initiate an investigation under G.L. c. 31, § 2(a).

Although she had not requested such an investigation, I gave Ms. Allison the opportunity to explain why the Commission should initiate such an investigation.

As part of her reasons, Ms. Allison argued that the promotion was predetermined well prior to the selection process. As evidence of this, she pointed to the fact that the selected candidate was transferred back to the next lower title of parking control officer several months before the vacancy was filled. Further, Ms. Allison stated that she was told by the Parking Control Director, prior to the promotional process, that the job had been promised to the selected candidate. Ms. Allison also alluded to the fact that the selected candidate had relatives that work in the same Department and that her brother-in-law is a superior officer in the City's police department.

I reviewed each of the above reasons. In regard to the selected candidate's transfer several months prior to the filling of the vacancy, it is undisputed that the vacancy in question arose after the unexpected and untimely death of the incumbent, which occurred months *after* the selected candidate transferred to the next lower title. In regard to the alleged comments of the Parking Control Director, Ms. Allison acknowledges that any such conversation took place *after* the interviews had been completed. In regard to the fact that the selected candidate has relatives working for the City, Ms. Allison had no evidence to suggest that they played any role in this promotion.

In light of the above, and given that the Commission only exercises its authority to initiate investigations sparingly, I advised the parties that the Commission would not be initiating an investigation.

In regard to the matter that is actually pending before the Commission, Ms. Allison's promotional bypass appeal, I advised the parties that, given the likelihood that the Commission has no jurisdiction to hear the appeal, the City would have thirty (30) days to file a Motion to Dismiss the appeal. Upon receipt of the City's Motion, Ms. Allison would have thirty (30) days thereafter to file a reply.

On May 9, 2014, the City filed a Motion to Dismiss Ms. Allison's appeal. Ms. Allison did not file a reply within the thirty (30) days referenced at the pre-hearing conference and memorialized in a Procedural Order issued to both parties on April 10, 2014.

For all the reasons cited in the City's motion, including that the City provisionally promoted a permanent civil service employee serving in the next lower title, consistent with G.L. c. 31, § 15 and prior Commission decisions, Ms. Allison's appeal under Docket No. G2-14-68 is hereby *dismissed*.

Civil Service Commission

Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell, and Stein, Commissioners) on June 26, 2014.

A true record. Attest:

Commissioner

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)(l), 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.

Notice:

Joanne Allison (Appellant)
Philip Collins, Esq. (for Respondent)
Mark Detwiler, Esq. (HRD)