

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals

Antonietta Bolomey,

Petitioner,

Docket No: CR-22-0028

v.

Boston Retirement System,

Date: July 26, 2024

Respondent.

FINAL DECISION

The petitioner, Antonietta Bolomey, appeals the Boston Retirement System's decision to deny her application to purchase prior non-membership service credit from her employment at the University of Massachusetts Boston (UMass Boston). Boston Retirement System has moved for summary decision on the ground that Bolomey cannot obtain credit for this service as a matter of law because she was paid from the Commonwealth's "03" account. Bolomey has not opposed the respondent's motion.

General Laws c. 32, § 3(5), allows a member of a public retirement system to purchase credit for prior non-membership service rendered "as an employee of any governmental unit." "Service" is defined, in G. L. c. 32, § 1, as "service as an employee in any governmental unit for which regular compensation is paid." The definition of "employee" specifically excludes,

however, "any person whose compensation for service rendered to the commonwealth is derived from the subsidiary account 03 of the appropriation of any department, agency, board or commission of the commonwealth." G. L. c. 32, § 1.

It is undisputed that Bolomey was a "[n]on-benefited" employee paid from the Commonwealth's "03" account for her service at UMass Boston. (See Exhibit 2 [correspondence and payroll documentation from UMass Boston human resources].) This service is not eligible for retirement credit purchase under G. L. c. 32, § 3(5). See, e.g., *Young v. State Bd. of Retirement*, CR-10-789, at *2 (CRAB Apr. 2, 2018) (state contract employment paid from 03 account was ineligible for service credit); *Fournier v. Andover Retirement Bd.*, CR-17-900, at *7 (DALA Dec. 3, 2021) ("non-benefited '03' position" at UMass was ineligible for service credit purchase); *Walsh v. Massachusetts Teachers' Retirement Sys.*, CR-15-478, at *4-5 (Apr. 19, 2019) (position paid from 03 account was not eligible for service credit purchase). Accordingly, Boston Retirement System is entitled to summary decision in its favor. See 801 Code Mass. Regs. § 1.01(7)(h) (summary decision is appropriate when "there is no genuine issue of fact . . . and [the moving party] is entitled to prevail as a matter of law").

Conclusion and Order

Summary decision is hereby granted in favor of the Boston Retirement System. Its decision denying the petitioner's application to purchase service credit is affirmed.

Division of Administrative Law Appeals

/s/ John G. Wheatley

John G. Wheatley
Administrative Magistrate