

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108

GIULIO BONAVIDA,
Appellant

v.

E-19-029

HUMAN RESOURCES DIVISION &
TOWN OF WINTHROP,
Respondents

Appearance for Appellant:

Pro Se
Giulio Bonavita

Appearance for Human Resources Division:

Patrick G. Butler, Esq.
Human Resources Division
100 Cambridge Street, Suite 600
Boston, MA 02114

Appearance for Town of Winthrop:

Howard L. Greenspan, Esq.
200 Broadway, Suite 304
Lynnfield, MA 01940

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On April 3, 2018, pursuant to a delegation agreement, the Town of Winthrop (Town) held an assessment center promotional examination for police sergeant.
2. The Appellant, Giulio Bonavita (Mr. Bonavita), a Winthrop Police Officer, took the above-referenced promotional examination on April 3, 2018.
3. Pursuant to G.L. c. 31, s. 59:

“ ... a member of a regular police force or fire force who has served as such for twenty-five years and who passes an examination for promotional appointment in such force shall have preference in promotion equal to that provided to veterans under the civil service rules [two additional points].”

4. HRD requires that time as a Reserve, Intermittent or Temporary Police Officer be submitted in the number of days or shifts worked for each year of the additional service. In accordance with M.G.L. Chapter 31, Section 59, HRD counts two hundred fifty days, or the equivalent thereof, of permanent reserve/intermittent service to be equivalent to one year of permanent full-time service in a regular police or fire force. (See DeFrancesco v. Human Resources Division, 21 MCSR 662 (2008))
5. Although Mr. Bonavita served as a reserve police officer as of 7/21/92, he has never provided HRD with an employment verification form with the number of days or shifts he worked as a reserve police officer.
6. Mr. Bonavita began serving as a permanent, full-time police officer in Winthrop as of 1/25/94.
7. Based on the above, Mr. Bonavita had served as a police officer for approximately 24 years and 2 months as of the date of the promotional examination on April 3, 2018. Thus, he did not qualify for the 2 points that is awarded to police officers with 25 years of service.
8. Two (2) Winthrop police officers took a make-up examination for police sergeant on October 25, 2018. Although one of the candidates was awarded 2 points for being a veteran, neither of the candidates received 2 points based on 25 years of service.
9. On February 7, 2019, Mr. Bonavita filed an appeal with the Commission, alleging that: a) he “did submit a letter for 25 years of service to receive 2 pts to my final passing score”; and b) “On October 25, 2018, a second Assessment Center (same exact test) was administered to two Winthrop Officers with Ryan Strategies. They were allowed to accrue time and credit up to October 25, 2018. I feel that as a member of the same Police Department and same Police Union that I also should be allowed to accrue the same time of credit as of October 25, 2018 giving me the 25 years of experience and 2 pts ...”.
10. On April 17, 2019, the Town filed a Motion to Dismiss Mr. Bonavita’s appeal
11. On April 23, 2019, HRD filed a Motion for Summary Decision seeking dismissal of Mr. Bonavita’s appeal.
12. Mr. Bonavita did not file a reply / opposition.

Analysis / Conclusion

Almost every premise of Mr. Bonavita's appeal is wrong.

First, he has never submitted documentation to HRD to show the number of days or shifts that he worked as a reserve police officer in Winthrop.

Second, the two (2) candidates who took the make-up examination on October 25, 2018 did not receive 2 additional points for 25 years of service.

Third, as referenced in HRD's Motion for Summary Decision, the cut-off date to determine whether the two (2) candidates who took the October 25, 2018 make-up examination had served for 25 years was April 3, 2018, the same date that applied to Mr. Bonavita.

For these reasons, Mr. Bonavita's appeal under Docket No. E-19-029 is *dismissed*.

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 July 18, 2019.

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. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice:

Giulio Bonavita (Appellant)

Patrick Butler, Esq. (for HRD)

Howard L. Greenspan, Esq. (for Town of Winthrop)