

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

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

RICHARD J. CORREALE, JR.,
Appellant

v.

B2-17-047

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
Richard J. Correale, Jr.

Appearance for Respondent:

Patrick Butler, Esq.
Human Resources Division
One Ashburton Place: Room 211
Boston, MA 02108

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On November 9, 2016, the Appellant, Richard J. Correale, Jr. (Mr. Correale) pursuant to G.L. c. 31, §§ 22-24, filed an appeal with the Civil Service Commission (Commission), contesting the “education and experience” (E&E) points awarded to him by the state’s Human Resources Division (HRD) regarding a promotional examination for police lieutenant on October 15, 2016.

Issues Raised in Appeal

On March 28, 2017, I held a pre-hearing conference at the offices of the Commission, which was attended by Mr. Correale and counsel for HRD. At the pre-hearing conference, Mr. Correale narrowed down his appeal to the following arguments:

1. Under Question 21, HRD failed to award him two (2) additional points (6 instead of 4) for his bachelor’s degree in Urban Affairs. Mr. Correale argues that, since many of the courses

in this program related to criminal justice, he should receive the same two (2) additional points that are awarded to individuals who receive a degree in criminal justice.

2. Under Questions 18 and 19, HRD failed to award him additional E&E credits for time spent working on task force(s) while he was employed as a Malden police officer and/or lieutenant.
3. Under Question 11, HRD credited him with .45 instead of .9 points based on their failure to credit him the time that his name was on a reserve police officer list in Malden.

In regard to Question 21, a degree in Urban Affairs is not listed as a type of degree that qualifies for the additional two (2) points. HRD has a uniform practice of not awarding these additional points for this question if the degree is not among those listed, even if many of the courses relate to a major listed (i.e. – criminal justice).

In regard to Questions 18 and 19, HRD has a uniform practice of not awarding any additional E&E for this question for time spent working on task force(s) while employed in a position (i.e. – police officer or sergeant) for which the applicant is already receiving E&E credit.

In regard to Question 11, HRD has a uniform practice of not awarding E&E credit for this question for the period of time in which someone’s name appeared on a reserve list.

Applicable Civil Service Law

G.L. c. 31, § 2(b) addresses appeals to the Commission regarding persons aggrieved by “... any decision, action or failure to act by the administrator, except as limited by the provisions of section twenty-four relating to the grading of examinations” It provides, *inter alia*, “No decision of the administrator involving the application of standards established by law or rule to a fact situation shall be reversed by the commission except upon a finding that such decision was not based upon a preponderance of evidence in the record.”

Pursuant to G.L. c. 31, § 5(e), HRD is charged with: “conduct[ing] examinations for purposes of establishing eligible lists.

G.L. c. 31, § 22 states in relevant part: “In any competitive examination, an applicant shall be given credit for employment or experience in the position for which the examination is held.”

In Cataldo v. Human Resources Division, 23 MCSR 617 (2010), the Commission stated that “... under Massachusetts civil service laws and rules, HRD is vested with broad authority to determine the requirements for competitive civil service examinations, including the type and weight given as ‘credit for such training and experience as of the time designated by HRD.’ G.L. c. 31, § 22(1).”

Analysis

As referenced above, HRD, as the Personnel Administrator, is vested with broad authority regarding the type and weight of credit given for training and experience as part of examinations. The Commission, however, must ensure that HRD’s decisions are uniform, and not arbitrary or capricious.

There is no evidence, nor has Mr. Correale shown that he would present any evidence, to show that HRD’s decisions here were not uniformly applied to all candidates and/or were arbitrary or capricious.

For these reasons, Mr. Correale’s appeal under Docket No. B2-17-047 is ***dismissed***.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan) on March 30, 2017.

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 to:

Richard J. Correale, Jr. (Appellant)
Patrick Butler, Esq. (for Respondent)