

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Division of Administrative Law Appeals  
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John Fortune  
Petitioner

Docket No: CR-25-0023

Date: March 7, 2025

v.

State Board of Retirement  
Respondent

**ORDER OF DISMISSAL**

The Petitioner appeals from the State Board of Retirement's (SBR) denial of his application to purchase prior military service. The SBR explained that the Petitioner last worked for the Commonwealth on November 8, 2024, but it did not receive his application to purchase this prior service until November 18, 2024. Because only "active members" may purchase prior creditable service, and because his application was received when he was an "inactive member", he was ineligible to complete the purchase. *Zavaglia v. Gloucester Retirement Bd.*, CR-09-459, \*5 (CRAB July 3, 2014).

I issued an Order to Show Cause asking the Petitioner to explain why his appeal should not be dismissed for failure to raise a claim. The Petitioner responded with a document: one page from his retirement application which confirms he last provided service for the Commonwealth on November 8, 2024. He explained that he submitted this document, not for that date, but to show that he "checked that I want to buy back my military time." Indeed, the application asks if he wishes to buy back time, which he checked "yes"; it also asks if he as a buyback in progress,

which he also checked “yes.” It does not, however, specify anything more such as when he applied and what he applied to purchase. More importantly, his response did not refute or dispel the SBR’s main point—that it did not receive his application until he was already an inactive member.

Because there is no dispute that the Petitioner did not apply to purchase this prior service while he was an active member, his appeal is **dismissed** for failure to state a claim. 803 Code of Mass. Regs. § 1.01(7)(g)(3).

DIVISION OF ADMINISTRATIVE LAW APPEALS

*Eric Tennen*

Eric Tennen  
Administrative Magistrate