

Commonwealth of Massachusetts Contributory Retirement Appeal Board

MICHELL GABRIELIAN, ET. AL.¹
Petitioner-Appellant

v.

MASSACHUSETTS TEACHERS' RETIREMENT SYSTEM,
Respondent-Appellee.

CR-23-0064, CR-23-0399, CR-21-0162, CR-22-0091, CR-23-0022,
CR-21-0153, CR-22-0454, CR-24-0022, CR-23-0174

DECISION

The petitioners are appealing Orders of Dismissal dated August 11, 2023; August 25, 2023; October 13, 2023; February 2, 2024; and March 1, 2024 issued by an administrative magistrate of the Division of Administrative Law Appeals (“DALA”). These appeals stem from the magistrate’s August 7, 2023 memorandum clarifying that a petitioner who did not timely elect to enroll in the Alternative Retirement Program, known as RetirementPlus or “R+”, by the legislatively set deadline of July 1, 2001, could not join the § 5(4) program at a later date. This applied even to teachers who received no personal notification about the benefit program. As these members were already teachers on the effective date, missed the deadline to enroll in RetirementPlus pursuant to G.L. c. 32, § 5(4), and did not qualify for the exceptions noted by the magistrate, these appeals were dismissed by the magistrate for failure to state a claim upon which relief may be granted. 801 C.M.R. 1.01(7)(g)(3). The petitioners filed timely appeals to us.

¹ For administrative efficiency purposes, the leading case shall be *Michelle Gabrielian v. Massachusetts Teachers Retirement System*, CR-23-0064. The other matters consolidated in this appeal include the following: *Patricia Gagliardi v. Massachusetts Teachers Ret. Syst.*, CR-23-0399; *Mary Kirwin Hayes v. Massachusetts Teachers Ret. Syst.*, CR-21-0162; *Laura Mahan v. Massachusetts Teachers Ret. Syst.*, CR-22-0091; *James Munsey v. Massachusetts Teachers Ret. Syst.*, CR-23-0022; *Robert Norton v. Massachusetts Teachers Ret. Syst.*, CR-21-0153; *Kristen Walsh v. Massachusetts Teachers Ret. Syst.*, CR-22-0454; *Ann Rolo v. Massachusetts Teachers Ret. Syst.*, CR-24-0022; *Denise Heavern v. Massachusetts Teachers Ret. Syst.*, CR-23-0174. The matter of *Christine Walsh v. Massachusetts Teachers Ret. Syst.*, CR-23-0394 was originally consolidated with the above matters but was later adjudicated on April 16, 2025.

These matters involve G.L. c. 32, § 5(4)(i) which established “an alternative superannuation retirement benefit program for members of the teachers’ retirement system and teachers who are members of the Boston retirement system.” Principally, this program requires teachers to contribute to their respective retirement systems at a higher rate but allows them “to retire at maximum benefit several years earlier.”² In order to join this program, active members of MTRS were required to submit an affirmative enrollment application “on or after January 1, 2001 and before July 1, 2001.” *Id.* Because the members connected to these appeals did not file an election form during the allotted statutory period, their requests to participate in RetirementPlus were denied. These matters are now before us on appeal.

Ms. Gabrielian, Ms. Gagliardi, Ms. Kirwan Hayes, Mr. Munsey, and Mr. Norton:

The record reflects that Ms. Gabrielian, Ms. Gagliardi, Ms. Kirwan Hayes, and Mr. Norton were members of MTRS prior to the enactment of RetirementPlus and were active members during the election period. Mr. Munsey was a member of Boston Retirement System when RetirementPlus was enacted. He then became a member of MTRS after the election period.

In 2023, Ms. Gabrielian attempted to elect into the RetirementPlus program after the election period and was denied. Ms. Gabrielian argues that she was not provided information on the RetirementPlus program. In fact, she contends that information from MTRS reflects that it had an incorrect mailing address for her during the relevant election period for RetirementPlus. She stated that the address on file with MTRS was her husband’s business address. As a result of the incorrect address on file, she was not mailed information on RetirementPlus and therefore, could not file an election form during the statutory period. For these reasons, Ms. Gabrielian requests that she be allowed to participate in RetirementPlus.

Similarly, Mr. Norton argues that he also did not receive an election form for the RetirementPlus program. When he contacted MTRS to obtain address information in its database, he found discrepancies that he believes impacted MTRS’s ability to notify him of this benefit program. Because he did not receive the election form, he did not file the election form

² H.B. 5250, Communication from the Governor Regarding House Bill No. 5116, “An Act Improving Teacher Recruitment, Retention and Retirement”.
<http://archives.lib.state.ma.us/handle/2452/707865>.

within the statutory timeframe. Accordingly, he argues that he should be given the opportunity to elect into RetirementPlus.

Ms. Gagliardi acknowledged that she received information regarding the RetirementPlus program. She explained that she did not elect into this program because the information was “unclear” and that she “did not understand the differences between the two options (9%-2% and R+).” She argues that because the information regarding the RetirementPlus program was vague which impacted her understanding of the program at the time, she did not complete the election form to participate in RetirementPlus but should now be allowed to elect into this program.

Ms. Kirwan-Hayes explained that she was not provided information regarding this benefit program, and therefore was not given the opportunity to elect into this benefit program. Thus, she now requests that she be allowed to elect to participate into RetirementPlus.

Mr. Munsey was a member of the Boston Retirement System during the 2001 election period. He did not file an election form to participate in The Teachers’ Alternative Retirement Plan (TARP) program, the BRS’s version of the RetirementPlus program. When he later became a member of the MTRS, his non-election status remained. Mr. Munsey explained that he was not provided information regarding the TARP/RetirementPlus program and therefore, was not given the opportunity to elect into this benefit program. Consequently, he argues that he should now be given the opportunity to elect into RetirementPlus.

First, it is important to emphasize that the Legislature drafts the laws, and that CRAB is task with interpreting and applying the law. “We interpret the language of [G.L. c. 32, § 5(4)(i)] ‘in accordance with its plain meaning, and if the language is clear and unambiguous, it is conclusive as to the intent of the legislature,’” *New England Auto Max, Inc. v. Hanley*, 494 Mass. 87, 91 (2024) (Statutes are to be interpreted in accordance with their plain words). Here, the Legislature made a plain choice to provide an election period for RetirementPlus between January 1, 2001 to June 30, 2001. It also opted to not include language requiring that the retirement system provide its members with notice of the right to elect into RetirementPlus. See G.L. c. 32, § 5(4).³ *Hood v. MTRS*, CR-15-534 (CRAB Mar. 22, 2021). In the absence of such

³ St. 2000, C. 114, § 2 provided (in pertinent part) the following:

“Section 5 of said chapter 32, as amended by section 12 of chapter 68 of the acts of 1999, is hereby further amended by adding the following subdivision:

language, CRAB cannot read the provision to include such a requirement that the Legislature did not include. *Retirement Bd. of Somerville v. Buonomo*, 467 Mass. 662, 672, 6 N.E. 3d 1069, 1077 (2014).

Despite the lack of a notice requirement in G.L. c. 32, § 5(4)(i), MTRS made efforts to notify its eligible members about the opportunity to enroll in the § 5(4) benefits program.⁴ As part of its efforts, MTRS notified its members through mailings. The Supreme Judicial Court has held that "a letter properly addressed and postpaid does not merely create a "presumption" but rather constitutes "prima facie evidence" of delivery to the addressee in the ordinary course of mail." *Patricia Barry v. Teachers' Retirement Board*, CR-01-933 (2002) citing *Hobart-Farrell Plumbing and Heating Co., Inc. v. Klayman, et. al.*, 19 N.E.2d 805, 807 (1939). Consequently, in cases where MTRS mailed election packages to the address on record, DALA and CRAB have not extended the deadline. *Hart v. Teachers' Retirement Bd.*, CR-01-1061 (DALA Nov. 26, 2002) (statute provides no exceptions to deadline where board took reasonable steps to ensure members were notified); *Miller v. MTRS*, CR-07-791 (DALA Dec. 22, 2011) (statute does not convey authority to extend deadline for election); *Roldan-Flores v. MTRS*, CR-18-0311 (CRAB, Dec. 10, 2020) (where board mailed election form to address on record, statute grants no authority to extend deadline for election). In instances where it is alleged MTRS mailed the correspondence to the wrong address, CRAB also did not extend the deadline to elect into

(4)(i) Notwithstanding the provisions of this chapter or any other general or special law to the contrary, there is hereby established an alternative superannuation retirement benefit program for members of the teachers' retirement system and teachers who are members of the State-Boston retirement system. Participation in said program shall be mandatory for all teachers hired on or after July 1, 2001. Such members shall make contributions to the teachers' retirement system or to the State-Boston retirement system at the rate of 11 per cent on all regular compensation. Any member of the teachers' retirement system or any teacher who is a member of the State-Boston retirement system before July 1, 2001 may elect to participate in the alternative superannuation retirement benefit program. Said election shall be made on or after January 1, 2001 and before July 1, 2001. Any member of a contributory retirement system who transfers into the teachers' retirement system or transfers into the State-Boston retirement system as a teacher may elect to participate in the alternative superannuation retirement benefit program; provided, that said election shall occur within 180 days of establishing membership in the teachers' retirement system or the State-Boston retirement system. The election to participate in the alternative superannuation retirement benefit program shall be irrevocable."

⁴ In the Matter of Enrollment in Retirement Plus, CR-21-369 (DALA Aug. 7, 2023), citing Affidavit of Erika M. Glaster, Aug. 4, 2023; *Tolman v. TRB*, No. CR-02-1305 (DALA Dec. 12, 2003); *Quinney v. TRB*, No. CR-05-274 (DALA Jan. 11, 2007).

RetirementPlus. See *Hood v. MTRS*, CR-15-534 (CRAB Mar. 22, 2021). This is because CRAB cannot extend a statutory deadline. Even in the face of hardship or omission, the deadline for filing an election to the program cannot be enlarged. *Martinelle v. Burke*, 298 Mass. 390 (1937); *Boland v. MTRS*, CR-01-823 (DALA Nov. 9, 2011) (aff'd CRAB July 31, 2002); *Sorrin v. MTRS*, CR-01-1031 (DALA Nov. 18, 2002). Moreover, since the statutory limitation period is jurisdictional, CRAB does not have the authority to waive it, even by consent of the parties. *Flynn v. CRAB*, 17 Mass. App. Ct. 668, 670 (1984). Accordingly, CRAB has consistently held that the original July 1, 2001 deadline cannot be extended “[b]ecause the [retirement statute] defines and limits the benefits to which [members] are entitled, those benefits are a legal determination that may not be enlarged...” *Clothier v. Teachers’ Ret. Bd.*, 78 Mass. App. Ct. 143, 146 (2010).

Unfortunately, the record reflects that Ms. Gabrielian, Ms. Gagliardi, Ms. Kirwan Hayes, Mr. Munsey, and Mr. Norton did not file an election form with MTRS (or Boston Retirement System) between January 1, 2001 and July 1, 2001 to participate in RetirementPlus. DALA and CRAB have consistently held that late applications do not qualify for RetirementPlus. *Lemmi v. MTRS*, CR-01-996 (DALA Dec. 19, 2002); *Miller-Charette v. MTRS*, CR-02-864 (DALA Oct. 1, 2003); *Machon v. MTRS*, CR-05-139 (DALA Oct. 20, 2006).

Although we are extremely sympathetic to the issues raised by Ms. Gabrielian, Ms. Gagliardi, Ms. Kirwan Hayes, Mr. Munsey, and Mr. Norton and acknowledge their best efforts to elect participation in the RetirementPlus program, those issues are not bases for which to ignore the plain language of the statute requiring election during the statutory period. *Carmel Credit Union v. Bondeson*, 55 Mass. App. Ct. 557, 560 (2002) (Statutes are to be interpreted in accordance with their plain words). Further, the statute does not provide for any exceptions to this deadline, and CRAB has not been able to locate any case law or precedence indicating that this board has the authority “to employ an equitable remedy in the face of specific statutory language contrary to the position fostered by the Appellant” *Barry v. Teachers’ Retirement Bd.*, CR-01-933 (2002), quoting *Petrillo v. PERAC*, CR-92-731 (Oct. 22, 1993), CRAB’s Decision on Reconsideration.

The benefits to which members of retirement systems are entitled are defined and limited by G.L. c. 32. *Clothier v. Teachers’ Retirement Syst.*, 78 Mass. App. Ct. 143 (2010). DALA and CRAB are unable to grant Ms. Gabrielian, Ms. Gagliardi, Ms. Kirwan Hayes, Mr. Munsey, and

Mr. Norton anything beyond what the retirement law provides. Since the statute established the period for election to participate in RetirementPlus and Ms. Gabrielian, Ms. Gagliardi, Ms. Kirwan Hayes, Mr. Munsey, and Mr. Norton did not file their election forms with the retirement system within the statutory period, we cannot expand the statute to grant them what they are requesting. We realize that this strict application can yield harsh results for them. Nevertheless, the redress that these members seek lies with the Legislature. *Stefanik-Bly v. MTRS*, CR-15-14 (DALA Nov. 3, 2017).

Ms. Mahan:

Ms. Mahan was teaching in the Worcester Public School system when RetirementPlus was enacted in 2000. She explained that she was assured by her building representative that she would be automatically enrolled in RetirementPlus. She also contends that she never received the election form. Thus, she never filed an election form. In 2019, when she began teaching at a new school district, she discovered she was not enrolled in RetirementPlus and proceeded to request that this error be corrected. Ms. Mahan argues that she was assured by her building representative at the time that she would be automatically enrolled in RetirementPlus and based on this misrepresentation, she should be placed in the RetirementPlus benefit program. In essence, Ms. Mahan makes an equitable argument.

Ms. Mahan's circumstances are not unlike the other appeals addressed here. Her circumstances are very sympathetic, having dedicated her career to educating pupils and trusting the information regarding RetirementPlus provided to her. Nevertheless, CRAB must affirm the DALA decision. The issues raised by Ms. Mahan are not bases for which to ignore the plain language of the statute requiring election during the statutory period. *Carmel Credit Union*, 55 Mass. App. Ct. at 560 (2002) (Statutes are to be interpreted in accordance with their plain words). Further, the statute does not provide for any exceptions to this deadline, and CRAB has not been able to locate any case law or precedence indicating that this board has the authority to employ an equitable remedy in the face of specific statutory language. *Petrillo v. PERAC*, CR-92-731 (Oct. 22, 1993), CRAB's Decision on Reconsideration.

As we noted above, the benefits to which members of retirement systems are entitled are defined and limited by G.L. c. 32. *Clothier*, supra. DALA and CRAB are unable to grant Ms. Mahan anything beyond what the retirement law provides. Since the statute established the

period for election to participate in RetirementPlus and she did not file her election form within the statutory period, we cannot expand the statute to grant her what she requests. We realize that this strict application can yield harsh results for Ms. Mahan. Nevertheless, the redress that she seeks lies with the Legislature. *Stefanik-Bly v. MTRS*, CR-15-14 (DALA Nov. 3, 2017).

For the above reasons and based on our discussion at pages 3 - 5, the DALA Order dismissing this appeal must be affirmed.

Additionally, Ms. Mahan argues that an error was made in her record – that she was erroneously advised she would automatically be enrolled in RetirementPlus. She now requests that this error be corrected. G.L. c. 32, § 20(5)(c)(2)⁵ allows corrections for errors that exist in the records or an error made in computing a benefit. The issue that Ms. Mahan raises is not an “error” contemplated by this provision. What Ms. Mahan requests is not permissible under the retirement laws. Because the statutory language allows for election to participate in RetirementPlus only during the specified period and Ms. Mahan failed to do so, CRAB cannot change the statutory language or enlarge a statutory deadline to allow Ms. Mahan’s request. In accordance with the plain language of the statute, Ms. Mahan was not permitted to elect into RetirementPlus after the statutory deadline, and therefore, was correctly excluded. In this instance, Ms. Mahan is seeking an equitable remedy, which CRAB has no authority to provide in contradiction to the retirement law. *Early v. State Bd. of Retirement*, 420 Mass. 836 (1995); *Bristol County Retirement Bd. v. Contributory Retirement Appeal Bd.*, 65 Mass. App. Ct. 443, 451-52 (2006); and *Petrillo v. PERAC*, CR-92-731 (CRAB 1993).

Ms. Rolo:

⁵ G.L. c. 32, § 5(c)(2) states in pertinent parts:

“When an error exists in the records maintained by the system or an error is made in computing a benefit and, as a result, a member or beneficiary receives from the system more or less than the member or beneficiary would have been entitled to receive had the records been correct or had the error not been made, the records or error shall be corrected and as far as practicable, and future payments shall be adjusted so that the actuarial equivalent of the pension or benefit to which the member or beneficiary was correctly entitled shall be paid. If it is determined that a member has contributed an incorrect amount to the retirement system, the member shall be required to contribute an amount sufficient to correct such error or the board shall pay an amount to the member to correct such error, as the case may be.”

With respect to Ms. Rolo, she was an inactive member of MTRS during the election period. She explained that she was on maternity leave beginning in February 2001 and did not receive an election form for RetirementPlus. In 2005, she requested the MTRS to allow her to participate in RetirementPlus. By letter dated February 8, 2005, MTRS denied Ms. Rolo's request to elect to participate in Retirement Plus after the statutory deadline because the period for making that election had passed. The letter notified Ms. Rolo of her 15 day right to appeal pursuant to G.L. c. 32, s. 16(4), and provided her with the address to which the appeal should be sent. Ms. Rolo did not file an appeal at that time. However, the record reflects that DALA issued its Notice of Receipt of Appeal from Ms. Rolo on January 19, 2024, nineteen years later.

We agree with DALA that, where no appeal letter on behalf of Ms. Rolo was sent to DALA or to the Contributory Retirement Appeal Board (CRAB) within fifteen days of MTRS's decision letter of July 30, 2008, DALA had no jurisdiction to consider Ms. Rolo's appeal. The statutory time limits provided by G.L. c. 32, § 16(4) are "jurisdictional in nature, and if an appeal is not timely filed, DALA has no jurisdiction to hear the appeal." *Worcester County Sheriff's Office v. State Bd. of Retirement*, CR-08-169 at 11 (DALA, Sept. 30, 2011); *Hanchett v. State Bd. of Retirement*, CR-07-1071 at 15 (DALA, Sept. 2, 2011); see *Herrick v. Essex Reg'l Retirement Bd.*, 68 Mass. App. Ct. 187, 190 (2007) (appeal period for judicial review under G.L. c. 30A, § 14(1) is jurisdictional); *Garrett v. Board of Assessors*, 43 Mass. App. Ct. 911, 911 (1997) (same); *Flynn v. Contributory Retirement Appeal Bd.*, 17 Mass. App. Ct. 668, 669 (1984) (same).

Attempts to institute judicial appeals "after expiration of the period limited by a statute..." have been deemed "repugnant to the procedural scheme." *Schulte v. Director of the Div. of Employment Sec.*, 369 Mass. 74, 79 (1975). In the context of administrative appeals, the need for strict application of time limits is even more apparent. In particular, retirement boards need to know with reasonable certainty which cases may be appealed in order to anticipate their potential liability for benefits. Moreover, if exceptions were available to toll or excuse the appeal periods under G.L. c. 30, § 16(4), DALA's resources and the energies of its magistrates would be diverted to evaluating factual timeliness claims, potentially involving testimony by the petitioner, other witnesses, or experts such as medical providers. Such additional duties, and the

indefinite extension of the appeal period for benefit decisions, could pose “untoward, massive, continuing burdens”⁶ on both retirement systems and on DALA.

Where the time limits for filing an appeal with DALA are jurisdictional, they cannot be extended or excused by waiver or consent. *See Worcester County Sheriff’s Office, supra*, at 11 and cases cited. For these reasons, the decision of the DALA magistrate dismissing Ms. Rolo’s appeal is affirmed. Based on this conclusion, we need not address whether Ms. Rolo is permitted to participate in the RetirementPlus program.

Ms. Walsh:

With respect to Ms. Walsh, she began teaching in the Amesbury Public School system in 1997. She was still employed within the Amesbury Public School system when the election period to participate in the RetirementPlus program was open to members. She reported that she completed the election form and submitted it to the Human Resources (HR) Department. While looking towards planning for her retirement, she discovered that HR did not file the election form with MTRS. She also learned that the RetirementPlus documents she completed were also not in her Personnel File. When Ms. Walsh requested information regarding her retirement options by email, she was asked to submit this request in writing to MTRS. Subsequently, in a letter dated October 10, 2022, Ms. Walsh explained that she discovered a discrepancy in her retirement contributions that was the result of an error within her school district or between her school district and MTRS. Regardless, Ms. Walsh requests that this error be corrected, so that she may retire with the correct percentage, make the appropriate payments and retire at the appropriate time.

On October 20, 2020, MTRS denied Ms. Walsh’s request to change her RetirementPlus eligibility status pursuant to G.L. c. 32, § 5(4), which prompted her appeal to DALA. On September 25, 2023, DALA issued an Order to Show Cause, requesting that Ms. Walsh show cause why her appeal should not be dismissed for failure to state a claim. 801 C.M.R. 1.01(7)(g)(3). The Order required her to file a response by September 26, 2023. However, her appeal was dismissed when DALA did not receive a timely response. DALA subsequently

⁶ *See Kozloski v. Contributory Retirement Appeal Bd.*, 61 Mass. App. Ct. 783, 785, 787 (2004) (denying claim for adjustment of “regular compensation” by a retroactive memorandum supplementing the union contract).

received a submission from Ms. Walsh postmarked on October 5, 2023, which contained affidavits to corroborate her claim that she submitted the paperwork to the HR department in the first half of 2001. This submission was construed as a Motion For Reconsideration by the magistrate. Such motion is required to identify “a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case.” 801 C.M.R. 1.01(7)(l). In an Order dated October 13, 2023, the magistrate explained that Ms. Walsh’s motion revisited the same theory presented in her notice of appeal. The magistrate explained that relevant case precedents have held that the submission of enrollment papers to an HR department is not a legally sufficient substitute for filing with the retirement system.⁷ He concluded that Ms. Walsh offered no reason to revisit this analysis and denied her Motion For Reconsideration.

After giving careful consideration to all the evidence in the record and the arguments presented by the parties, we incorporate by reference the magistrate’s Order To Show Cause of September 25, 2023 and the Order of October 13, 2023 and affirm for the reasons stated therein.

Ms. Walsh was an active member of MTRS between January 1, 2001 and July 1, 2001. She explained that she filed her enrollment forms with the HR department of the Amesbury Public Schools but that the paperwork was never filed. She urges that CRAB correct this error to allow her to participate in the RetirementPlus program. However, Ms. Walsh does not cite to any statutory provision or existing case law in her filings to CRAB that supports her position; but avers we should rule in her favor on the grounds that an error was made, thereby depriving her the right to participate in RetirementPlus. In other words, Ms. Walsh seeks an equitable remedy.

CRAB has consistently held that the original July 1, 2001 deadline cannot be extended “[b]ecause the [retirement statute] defines and limits the benefits to which [members] are entitled, those benefits are a legal determination that may not be enlarged, even by an erroneous interpretation by [a board] or any of its employees.” *Clothier*, 78 Mass. App. Ct. at 146 (2010). CRAB must strictly apply this precedence, even when a Petitioner alleges that she completed the election form and provided it to the HR department. Unfortunately, we must apply the law as

⁷ Acts of 2004 c. 149, § 397; *Desire v. MTRS*, CR-14-200 (DALA July 2017); *Hanchett v. State Bd. of Retirement*, CR-07-1071 (DALA Sept. 2011); *Tolman*, CR-02-1305 (Dec. 2003); *Petrillo v. PERAC*, CR-92-731 (CRAB Oct. 1993) (Chapter 32 contains no provision for compassion).

written,⁸ even where the result may appear harsh.⁹ CRAB is tasked only with interpreting and applying the statutory provisions it is charged with administering. *Haverhill Retirement Syst. v. CRAB*, 82 Mass. App. Ct. 129, 131 (2012); *Arlington Retirement Bd. v. CRAB*, 75 Mass. App. Ct. 437, 441 (2009). The authority to make changes to the retirement law rests with the Legislature. While we commend Ms. Walsh for her years of service and sympathize with her circumstances, DALA and CRAB simply do not have the authority to provide equitable relief where it contravenes the retirement law. See *Early v. State Board of Retirement*, 420 Mass. 836 (1995) (DALA 1992) (aff'd CRAB 1993) and *Petrillo v. Public Employee Retirement Administration*, CR-92-731 (DALA 1992) (aff'd CRAB 1993).

The filing date for election to participate in the RetirementPlus program is statutory. Neither DALA nor CRAB can act contrary to the specific mandates of G.L. c. 32, § 5(4)(i). Because Ms. Walsh was properly excluded from participation in RetirementPlus, there is no error to be corrected pursuant to G.L. c. 32, § 20(5)(c)(2). The decision of the DALA magistrate is affirmed. ***Affirm.***

Accordingly, for the reasons stated above, the DALA Orders of Dismissal in connection with CR-23-0064; CR-23-0399; CR-21-0162; CR-22-0091; CR-23-0022; CR-21-0153; CR-22-0454; CR-24-0022; and CR-23-0174 are affirmed. ***Affirm.***

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD

⁸ Courts “‘are construed to follow’ the plain language of a statute when its ‘language is plain and unambiguous,’ and its application would not lead to an ‘absurd result,’ or contravene the Legislature’s clear intent.” *Commissioner of Rev. v. Cargill, Inc.*, 429 Mass 79, 82 (1999), quoting *White v. Boston*, 428 Mass. 250, 253 (1998).

⁹ See also *Pearlmutter v. TRB*, No. CR-01-1044 (CRAB Nov. 6, 2003)(application denied where teacher completed the application form, timely submitted it to the payroll department for signature which was returned to the teacher, but teacher could not recall whether she filed it with the retirement board); *Lamour v. TRB*, No. CR-01-1004 (CRAB Nov. 6, 2003)(application denied where teacher completed the application form, timely submitted it to the payroll department for signature which was returned to the teacher by interoffice mail at the end of the school year, and teacher subsequently filed the election form with the retirement board upon her return to school in the Fall); *Hale (Robinson) v. TRB*, No. CR-01-861 (CRAB Jan. 31, 2003)(application denied for teacher caring for a seriously ill father who filed the election form after the statutory deadline); *Boland v. TRB*, CR-01-823 (CRAB July 31, 2002)(application denied for teacher caring for daughter undergoing a course of chemotherapy who filed election form ten days late).



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