

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

EDWARD GRACE,
Appellant

G1-15-15

v.

HUMAN RESOURCES DIVISION
& BOSTON POLICE DEPARTMENT,
Respondents

Appearance for Appellant:

Pro Se
Edward Grace

Appearance for Human Resources Division:

Michael Downey, Esq.
Human Resources Division
One Ashburton Place
Boston, MA 02108

Appearance for Boston Police Department:

Meryum Khan, Esq.
Peter Geraghty, Esq.
Boston Police Department
One Schroeder Plaza
Boston, MA 02120

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On January 20, 2015, the Appellant, Edward Grace (Mr. Grace), pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (Commission).

On March 3, 2015¹, I held a pre-hearing conference at the offices of the Commission, which was attended by Mr. Grace, counsel for the state's Human Resources Division (HRD) and co-counsel for the Boston Police Department (BPD).

¹ Two (2) previously-scheduled pre-hearing conferences were continued due to weather-related reasons.

Based on the information provided at the pre-hearing conference, the following is undisputed, unless otherwise noted:

1. Mr. Grace is fifty-one (51) years old and is a resident of Boston.
2. In June 2013, Mr. Grace took the civil service examination for police officer and received a score of 99. He is not a veteran.
3. As a result of passing the June 2013 civil service examination, HRD placed Mr. Grace's name on the eligible list of candidates for Boston Police Officer, which was established on October 15, 2013.
4. Whenever the Boston Police Department seeks to appoint police officers, they must requisition a Certification from HRD and comply with the so-called "2N + 1" formula.
5. In cities and towns, such as Boston, that have accepted the provisions of G.L. c. 31, § 58, no candidate shall be eligible to have his name certified (placed on a Certification) for original appointment to the position of firefighter or police officer if such person has reached his 32nd birthday on the date of the entrance examination.
6. In May 2007, pursuant to Chapter 43 of the Acts of 2007, the maximum age restriction for Boston police officer candidates was changed from 32 to 40.
7. On December 11, 2013, the Boston City Council passed a Home Rule Petition to ask the state legislature to adopt special legislation "directing the City of Boston Police Department to waive the maximum age requirement for police officers for Edward Grace."
8. Four (4) days prior to the expiration of his term, then-Boston Mayor Thomas Menino approved the Petition.

9. The proposed legislation (S. 2022) was filed by Senator Sal DiDomenico in or around February 2014. It was enacted by the Legislature and laid before the Governor on January 6, 2015.
10. On January 8, 2015, on the final day of his term, then-Governor Deval Patrick signed the bill into law (Chapter 497 of the Acts of 2014).
11. The Special Act states:

“Section 1. Notwithstanding chapter 43 of the acts of 2007 or any other general or special law to the contrary, the police department of the city of Boston shall waive the maximum age requirement for original appointment for Edward Grace as a police officer. If Edward Grace meets all other requirements set forth by the police department of the city of Boston, he shall be eligible to have his name certified for original appointment to the position of police officer.

Section 2. This act shall take effect upon its passage.”
12. If Mr. Grace’s name appears on any Certification for Boston police officer created on or after January 8, 2015, his age (currently 51) will not disqualify him for consideration. The current eligible list expires on October 31, 2015.

Relief being sought by Mr. Grace

According to Mr. Grace, “the length of time to get required legislation through both local and State put me at a disadvantage because there have been numerous recruit classes for the BPD.” He is seeking to have his name placed at the top of the next police officer Certification for police officer, placing his name above all other eligible candidates, including disabled veterans and veterans.

Analysis

Mr. Grace is not an aggrieved person and relief by the Commission is not warranted here. Special legislation has been passed waiving the BPD’s maximum age restriction for one person, who is 51 years old. Setting aside the appropriateness of this special legislation, it is undisputed

that the Act's effective date is January 8, 2015. Mr. Grace is entitled to the special waiver as of that date – and not a day sooner.

Conclusion

Mr. Grace's appeal under Docket No. G1-15-15 is *dismissed*.

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell and Stein, Commissioners) on April 2, 2015.

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.

Notice:

Edward Grace (Appellant)

Michael Downey, Esq. (for HRD)

Peter Geraghty, Esq. (for Boston Police Department)

Meryum Khan, Esq. (for Boston Police Department)