

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

**SUFFOLK, SS.**

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

**MATTHEW J. GREALISH,**  
Appellant

v.

**CASE NO: G1-08-25**

**REGISTRY OF MOTOR VEHICLES,**  
Respondent

Appellant: Matthew J. Grealish, Pro Se  
545 Commercial Street  
Braintree, MA 02184

Appointing Authority  
Attorney : Robert M. Horack, Esq.  
Legal Counsel  
Registry of Motor Vehicles  
Ten Park Plaza  
Boston, MA 02116-3969

HRD Attorney: Michelle Heffernan, Esq.  
Deputy General Counsel  
Human Resources Division  
One Ashburton Place  
Boston, MA 02108

**DECISION ON MOTION FOR RECONSIDERATION**

The Appellant, Matthew J. Grealish appealed a decision of the Registry of Motor Vehicles ("RMV") that declined to appoint him provisionally to the position of Driver License Examiner. Mr. Grealish asserted that the RMV failed to provide him a statutory preference, to which he was entitled as a veteran, under G.L.c.31, §26. On April 10, 2008, the Commission dismissed Mr. Grealish's appeal. Mr. Grealish duly filed a timely Motion for Reconsideration. A hearing on this motion was held on July 7, 2008. One tape recording was made of the hearing.

In his Motion for Reconsideration, Mr. Grealish does not dispute the fact that the RMV filled the Driver License Examiner positions in question with veterans. He asserts the additional claim, not presented previously, that, he is a disabled veteran who should have received a higher priority over the other veterans who were selected. The RMV opposed the Motion for Reconsideration, arguing that the higher preference for disabled veterans provided by G.L.c.31, §26 does not apply to provisional appointments. The RMV also pointed out that one of the persons selected for appointment was, in fact, a disabled veteran.

G.L.c.31, §26 provides in relevant part (*emphasis added*):

*The names of persons who pass examinations for original appointment to any position in the official service shall be placed on eligible lists in the following order: (1) disabled veterans, in the order of their respective standings; (2) veterans in the order of their respective standings; . . . .*

*An appointing authority shall appoint a veteran in making a provisional appointment under section twelve, unless such appointing authority shall have obtained from the administrator a list of all veterans who, within the twelve months next preceding, have filed applications for the kind of work called for by such provisional appointment, shall have mailed a notice of the position vacancy to each of such veterans and shall have determined that none of such veterans is qualified for or is willing to accept the appointment.*

*A disabled veteran shall be retained in employment in preference to all other persons, including veterans.*

This law must be interpreted by reading the entire the statute as a whole, according to the plain meaning of the words chosen by the legislature, and we must avoid any interpretation that would render any part of the language in a statute superfluous. See, e.g., Commonwealth v. Biagiotti, 451 Mass. 559, 603-604, 888 N.E.2d 364 (2008). So long as the meaning of a statute is clear and unambiguous, it is not the function of the Commission to rewrite it. Bulger v. Contributory Retirement Appeal Board, 447 Mass.

651, 661, 856 N.E.2d 799 (2006), quoting Commissioner of Revenue v. Cargill, Inc., 429 Mass. 79, 86, 706 N.E.2d 625 (1999)

Applying these rules, as we must, and after a full review of applicable law, the Commission is compelled to agree with the RMV position. Section 26 of the Civil Service Law could not be more explicit in distinguishing the status of “disabled veteran” and “veteran” and in providing for clearly different treatment of “disabled veterans” in the case of “original appointments” covered by the first paragraph and in layoffs under the sixth paragraph, on the one hand, and in the case of “provisional appointments” covered by the fifth paragraph, on the other hand. The higher preference for “disabled veterans” over “veterans” applies only in the first two situations. See also Crowther v. City of Melrose, Case No. G-2630, 7 MSCR 64 (1994) (veteran’s preference in appointments to labor service under G.L.c.31, §28 does not provide a special preference for disabled veterans). See generally, Hutchenson v. Director of Civil Service, 361 Mass. 480, 281 N.E.2d 53 (1972) (5-2 decision, discussing legislative history of special preference for disabled veterans and striking down, as unconstitutional, part of predecessor version of Section 26, insofar as it had granted an “absolute” preference to disabled veterans)

The Commission can certainly appreciate the wisdom of a difference of opinion on the merits of the issue, but change to the existing law is the purview of the legislative branch.

The Motion to Reconsider is granted and, after reconsideration, the Commission affirms its original decision and the appeal is hereby *dismissed*.

Civil Service Commission



Paul M. Stein  
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Stein and Taylor, Commissioners; Marquis [absent]) on July 24, 2008.

A True Record. Attest:

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Commissioner

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to: Matthew J. Grealish  
Robert M. Horack, Esq. (RMV)  
Michelle Heffernan, Esq. (HRD)