

COMMONWEALTH OF MASSACHUSETTS
Division of Administrative Law Appeals

KRISTIN JOHNSON, <i>Petitioner</i>	:	
v.	:	Docket No. CR-24-0357
STATE BOARD OF RETIREMENT: <i>Respondent</i>	:	Date: March 14, 2025
	:	

Appearances:

For Petitioner: Kristin Johnson, *pro se*
For Respondent: Robin Chu, Esq.

Administrative Magistrate:

Eric Tennen

SUMMARY OF DECISION

The State Board of Retirement’s denial of Petitioner’s request to purchase her contract service with the Massachusetts Commission for the Deaf and Hard of Hearing is affirmed. Only a member in service can purchase prior creditable service, and because there is no dispute that the Petitioner was not a member in service when she applied in April of 2021, she is ineligible.

INTRODUCTION

Petitioner, Kristin Johnson, timely appeals a decision of the State Board of Retirement (“Board”) denying her request to purchase contract service with the Massachusetts Commission for the Deaf and Hard of Hearing. DALA determined the case could be submitted on the papers under 801 Code of Mass. Regs. § 1.01(10)(c). Both the Petitioner and the Board submitted a

memorandum and exhibits. I admit into evidence Petitioner’s exhibits marked P1 and P2, and Respondent’s exhibit marked R1.¹

FINDINGS OF FACT

1. Ms. Johnson applied to purchase contract service with the Massachusetts Commission for the Deaf and Hard of Hearing as a Project Coordinator from 2006 to 2015. The request was dated April 7, 2021, and was received by the Board on April 13, 2021. (Exs. P1 & R1.)
2. The Board’s records indicate Ms. Johnson was last a member in service of the State Retirement System on or around February 24, 2021. (Ex. R1.)
3. On June 3, 2024, the Board denied Ms. Johnson’s application because she was not a member in service when she applied. (Ex. R1.)²
4. Ms. Johnson is currently working as an adjunct faculty member at Berkshire Community College and Northern Essex Community College teaching American Sign Language. (Ex. P2.)
5. Ms. Johnson currently contributes to the Massachusetts Deferred Compensation SMART Plan (“OBRA”), not the state’s retirement system. (Ex. P2.)

DISCUSSION

Ms. Johnson requested to buy back her contract service as a Project Coordinator for the Massachusetts Commission for the Deaf and Hard of Hearing. Contract service can be purchased only by members in service of the state employees’ retirement system. G.L. c. 32, § 4(1)(s); *Manahan v. State Bd. of Ret.*, CR-14-787, *4 (Div. Admin. Law Apps., Mar. 25, 2016, *aff’d* by

¹ P1 is the Petitioner’s current pay stub. P2 is Section B of the Petitioner’s purchase application, which includes her employment contracts. R1 is the Board’s appealable letter denying the Petitioner’s application.

² Ms. Johnson understandably (and rightly) complains it took the Board an unnecessarily long time to respond to her request—almost three years. While I agree that seems like a long delay, it is irrelevant to the issues in this case.

Contributory Ret. App. Bd., Dec. 21, 2016). Here, the Board received Ms. Johnson's request on April 13, 2021, and the Board's records indicate she last worked for the Commonwealth on or around February 24, 2021. Ms. Johnson has not disputed that she was not a member in service at the time she applied to buy back her service. That alone makes her ineligible. *See* G.L. c. 32, § 3(1)(a)(i); *Zavaglia v. Gloucester Ret. Bd. & Salem Ret. Bd.*, CR-09-459, *4 (Div. Admin. Law Apps., Jan. 10, 2014, *aff'd* by Contrib. Ret. App. Bd., July 3, 2014).

Ms. Johnson adds that she is currently a member in service and was at the time the Board returned its decision in June of 2024, but she is not. Ms. Johnson is currently employed by Berkshire Community College and Northern Essex Community College. Although she is paid by the commonwealth, she is a contract employee and therefore is not a member in service of the state's retirement system. This conclusion is supported by the fact she pays into OBRA, and not the state's retirement system.

Additionally, even if she were currently a member in service, she would still be ineligible to purchase this prior service *on this record*. A member seeking to purchase prior contract service needs ten years of creditable service "exclusively with the Commonwealth as a member of the MSERS." 941 Code of Mass. Regs. § 2.09(3)(a). The contract service being purchased must also have immediately preceded membership or re-entry into the retirement system. *Id.* at § 2.09(3)(e). Ms. Johnson does not explain where, or if, she was employed at the time she applied to purchase her service.

Because a person must be a member in service when she applies to purchase creditable service, and Ms. Johnson has not presented evidence of being a member in service then, the Board is entitled to prevail as a matter of law.

CONCLUSION AND ORDER

For the foregoing reasons, the Board's decision to deny the Petitioner's request to buy back service is **affirmed**.

SO ORDERED

DIVISION OF ADMINISTRATIVE LAW APPEALS

Eric Tennen

Eric Tennen
Administrative Magistrate