

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION
One Ashburton Place: Room 503
Boston, MA 02108
(617) 979-1900

JONATHAN MEDEIROS,
Appellant

v.

B2-21-054

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
Jonathan Medeiros

Appearance for Respondent:

Patrick Butler, Esq.
Human Resources Division
100 Cambridge Street, Suite 600
Boston, MA 02114

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On March 6, 2021, the Appellant, Jonathan Medeiros (Appellant), a Fire Lieutenant in the Fall River Fire Department, filed an appeal with the Civil Service Commission (Commission), contesting a determination by the state’s Human Resources Division (HRD) to deny him education and experience credit for a certain “certification” for which he believes he should be awarded additional E/E points.
2. On April 13, 2021, I held a remote pre-hearing conference which was attended by the Appellant and counsel for HRD.
3. As part of the pre-hearing conference, the parties stipulated to the following:
 - A. On November 21, 2020, the Appellant took the Fire Captain examination.
 - B. He received a written score of 87.14 and an E/E score of 101.15 for a total score of 90.
 - C. He is currently tied for 4th on the current eligible list for Fall River Fire Captain.
 - D. The Appellant was denied 0.5 E/E points for a HazMat technician course.
 - E. If awarded this 0.5 E/E points, his total score would be increase by 0.1 points (0.5 x 0.2)

4. According to the Appellant, Fall River goes down to the one hundredth decimal point of examination scores to break ties of individuals on the eligible list.
5. As of the pre-hearing conference, it was unknown if an additional 0.1 points would result in a change in the Appellant's ranking, even if broken down to the one-hundredth decimal point.
6. In regard to the substantive issue, HRD stated that the Appellant was not awarded the E/E point for the HazMat technician course, in part because the supporting documents showed only a "certificate of completion" as opposed to a "certification".
7. During the pre-hearing conference, the Appellant provided me with access to his profile on the "Pro Board Certification Registry" which lists the Haz Mat Technician course as "certified", similar to the other courses for which HRD granted E/E points to the Appellant. Further, the "Certificate of Completion" indicates that the course required 305 hours of class time (which the Appellant verified that he completed).
8. For all of the above reasons, I ordered HRD to: a) determine whether a 0.1 point increase in the Appellant's total score would change his ranking vis-à-vis other candidates on the eligible list, when broken down to the one-hundredth decimal point; and b) determine whether, based on the "Pro Board Certification Registry" information, the Appellant should be considered "certified" in this course and awarded the 0.5 E&E points.
9. On April 22, 2021, HRD, after review, notified the Commission that, even if the Appellant were awarded the 0.5 E&E points, his ranking would not change vis-à-vis other candidates on the eligible list, even when broken down to the one-hundredth decimal point.
10. In regard to the second request, HRD replied: "The Appellant failed to provide the proper documentation and information at the time that he was required to complete his online claims. HRD cannot confirm that the Appellant is "pro-board certified" as he claimed, as HRD had no such information at the time of the scoring this exam nor does it accept the photograph that the Appellant provided at the investigative conference. HRD does not have access to the 'Pro Board Registry.' HRD already provided the Appellant in its instructions what it would accept for proof of certification in this area. The Appellant failed to comply."

Analysis / Conclusion

Based solely on the fact that the outcome of this appeal would have no impact on the Appellant's rank, either in terms of his rank on the eligible list based on whole numbers or in terms of the tie-breaking method used by Fall River, this appeal is dismissed on futility grounds.

"A case is moot when there is no longer any need for the relief sought, see Ott v. Boston Edison Co., 413 Mass. 680, 682-683 (1992), or "when the party claiming to be aggrieved ceases to have a personal stake in its outcome." Commissioner of Correction v. McCabe, 410 Mass. 847, 850 (1991), quoting Attorney Gen. v. Commissioner of Ins., 403 Mass. 370, 380 (1988). See

Mullholland v. State Racing Comm'n, 295 Mass. 286, 289 (1936) (case is moot when "the situation is such that the relief sought is no longer available or of any use to the plaintiffs and a decision by the court will not be applicable to existing rights").”

Minasian v. PNC Bank, --- Mass. App. Ct. --- (March 1, 2021) (unpublished Rule 23.0 disposition)_

“A case is moot when the parties no longer have a stake in the determination of the issues presented, First Natl. Bank of Boston v. Hafler, 377 Mass. 209, 211 (1979), when the dispute has become hypothetical, or when it does not involve an actual controversy, Sullivan v. Secretary of the Commonwealth, 233 Mass. 543, 546 (1919). See Wolf v. Commissioner of Pub. Welfare, 367 Mass. 293, 298 (1975).”

Town of Hingham v. Patch, 82 Mass.App.Ct. 1103 n.3, 969 N.E.2d 748 (Mass. App. 2012) (unpublished Rule 1:28 decision).

Murphy v. Hunt, 455 U.S. 478, 481 (1982) (in general, “a case becomes moot 'when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome”).

"A case becomes moot 'only when it is impossible for a court to grant any effectual relief whatever to the prevailing party" (emphasis added.) Campbell-Ewald Co. v. Gomez, 136 S.Ct. 663, 669 (2016), quoting Knox v. Service Employees, 132 S.Ct. 2277, 2287 (2012). "As long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot." Id, quoting Chafin v. Chafin, 133 S.Ct. 1017, 1023 (2013).

Silva v. Todisco Servs., Inc., docket no. 1684CV02778-BLS2 (Mass. Super. Ct. March 6, 2018)

To ensure clarity, however, HRD’s determination that a “certificate of completion” is somehow distinguishable from proof of “certification” appears, in this instance, to defy logic and commonsense. Prior to the next examination cycle, I would encourage HRD to determine, based on the *facts*, whether this 305-hour course qualified for the applicable E&E points and whether a “certificate of completion” and a “certification” reflects a distinction without a difference.

For these reasons, the Appellant’s appeal under Docket No. B2-21-054 is *dismissed*.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on May 21, 2021.

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. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice:

Jonathan Medeiros (Appellant)

Patrick Butler, Esq. (for Respondent)