

**COMMONWEALTH OF MASSACHUSETTS
CONTRIBUTORY RETIREMENT APPEAL BOARD**

**WILLIAM SAFFIE,
Petitioner-Appellant**

v.

**STATE BOARD OF RETIREMENT,
Respondent-Appellee.**

CR-21-0020

DECISION

The petitioner-appellant William Saffie appeals from a decision of the Division of Administrative Law Appeals (DALA) affirming the State Board of Retirement's denial of his request to classify his position in Group 2. The magistrate held a hearing on May 9, 2023 and admitted Petitioner's exhibits 1-15 and Respondent's exhibits 1-5. Mr. Saffie was the only witness. The DALA decision is dated July 7, 2023. Mr. Saffie filed a timely appeal to us.

After reviewing the evidence in the record and the arguments presented by both parties, we adopt the Findings of Fact in the July 7, 2023 DALA decision as our own, and we incorporate the decision by reference. For the reasons below, we affirm the DALA decision. *Affirm.*

Background. Mr. Saffie began working for the Massachusetts Department of Transportation (MassDOT) on or around January 30, 2000.¹ Mr. Saffie's position title is Contract Specialist II, and his functional position is Highway Maintenance Foreman IV.² The Form 30 (i.e., the position description) for Mr. Saffie's position states that the position's primary duties are: "Monitor and/or participate in the activities of a work crew engaged in the upkeep, maintenance and repair of MassDOT highways, roadsides and facilities; maintain records of work completed, equipment used, etc.; and perform related work as required."³ The Form 30 further states: "The basic purpose of this work is to oversee the maintenance, repair and upkeep of highway and roadway surfaces, roadside areas and facilities."⁴

On June 8, 2020, Mr. Saffie completed a Group Classification Questionnaire, requesting Group 2 classification.⁵ By letter dated November 30, 2020, the State Board of Retirement (Board) notified Mr. Saffie that it had denied his request for Group 2 classification.⁶ Mr. Saffie timely appealed to DALA, and following DALA's affirmance of the Board's decision, Mr. Saffie timely appealed to us.

¹ FF#1; Respondent's Ex. 2.

² FF#s 3 and 4; Respondent's Exs. 2-5.

³ FF#3; Respondent's Ex. 3.

⁴ FF#3; Respondent's Ex. 3.

⁵ FF#13; Respondent's Ex. 2.

⁶ FF#14; Respondent's Ex. 1.

Discussion. We affirm DALA's decision affirming the Board's denial of Mr. Saffie's request for Group 2 classification and concluding that the Board correctly assigned Mr. Saffie to Group 1.⁷

As DALA correctly noted, the public retirement statute (G.L. c. 32) identifies employees included in Group 2 by naming their positions or titles, rather than by describing the type of work they perform. *Gaw v. CRAB*, 4 Mass. App. Ct. 250, 255 (1976). There are two exceptions to this general rule. *Id.* The following two categories of employees are classified in Group 2 based on the type of work they perform, not their positions or titles: "employees of the commonwealth or of any county\ regardless of any official classification ... whose regular and major duties require them to have the care, custody, or other supervision of prisoners" and "employees of the commonwealth or any county whose regular and major duties require them to have the care, custody, instruction or other supervision of parolees or persons who are mentally ill or mentally defective or defective delinquents or wayward children... " G.L. c. 32, § 3(2)(g).

Applying these general principles, DALA concluded Mr. Saffie is not entitled to Group 2 classification because his position is not mentioned by name under Group 2 in the statute and because his regular and major duties do not require him to have the "care, custody, instruction or other supervision of prisoners ... parolees

⁷ The public retirement statute (G.L. c. 32) classifies employees into four groups. G.L. c. 32, § 3(2)(g). Employees classified in Group 2 attain the maximum retirement allowance sooner than employees classified in Group 1. G.L. c. 32, § 5.

or persons who are mentally ill or mentally defective or defective delinquents or wayward children."

Mr. Saffie does not contend that DALA made a legal error or an erroneous finding of fact. Rather, he objects to the DALA decision on the grounds that his work is risky and dangerous, which is an argument he also made to DALA. We agree that Mr. Saffie has encountered significant hazards in his work, including removing debris from the middle of a highway, being hit by a car, suffering multiple concussions, clearing homeless encampments, and disposing of human waste, dead animals, needles, and human body parts.⁸ However, dangerousness, in and of itself, does not entitle an employee to Group 2 classification.⁹ Rather, an employee must meet the statutory requirements in order to be classified in Group 2, and we may not provide an equitable remedy in contravention of the statute. *Petrillo v. Public Employee Retirement Administration*, CR-92-731 (CRAB Oct. 22, 1993). It is for the Legislature, and not CRAB or DALA, to decide whether additional positions should be classified in Group 2.

Conclusion. We affirm the magistrate's conclusion in the July 7, 2023 DALA decision affirming the Board's denial of Mr. Saffie's request for Group 2 classification. **Affirm.**

⁸ FF#s 6-9, 11.

⁹ In his initial objections to the DALA decision, Mr. Saffie stated that he should be classified in Group 3. Mr. Saffie's appeal to DALA was from the Board's denial of his request for Group 2 classification, so Mr. Saffie's potential classification in Group 3 was not properly before DALA or us. However, we note that Group 3 classification is only available to officers and inspectors in the department of state police. G.L. c. 32, § 3(2)(g).

SO ORDERED.

CONTRIBUTORY RETIREMENT APPEAL BOARD

Did not participate

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