

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

NORAYR SARGSYAN,
Appellant

C-16-179

v.

DEPARTMENT OF CONSERVATION
AND RECREATION,
Respondent

Appearance for Appellant:

Pro Se
Norayr Sargsyan

Appearance for Respondent:

Kenneth Langley, Esq.
DCR
251 Causeway Street
Boston, MA 02114-2119

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On October 26, 2016, the Appellant, Norayr Sargsyan (Mr. Sargsyan), who is employed by the Department of Conservation and Recreation (DCR), filed a reclassification appeal with the Civil Service Commission (CSC).
2. The appeal form submitted to CSC states that Mr. Sargsyan is requesting a reclassification from Laborer II to Motor Equipment Operator I (MEO 1).
3. On November 15, 2016, I held a pre-hearing conference at the offices of the Commission, which was attended by Mr. Sargsyan and counsel for DCR.
4. At the pre-hearing conference, Mr. Sargsyan clarified that he is seeking a reclassification from Laborer II to Tractor Driver.
5. It is undisputed that, although Mr. Sargsyan has filed a request for reclassification with DCR, DCR has taken no action on his request at this time.

Applicable law

G.L. c. 30, § 49 states in relevant part:

“A manager or an employee of the commonwealth objecting to any provision of the classification affecting the manager or employee's office or position may appeal in writing to the personnel administrator [HRD] ... Any manager or employee or group of employees further aggrieved after appeal to the personnel administrator may appeal to the civil service commission. Said commission shall hear all appeals as if said appeals were originally entered before it ...”

Analysis / Conclusion

This appeal was filed with the Commission prematurely. DCR has taken no action on Mr. Sargsyan's request for reclassification. Further, if DCR denies his request, Mr. Sargsyan must first file an appeal with (and receive a determination from) HRD prior to filing an appeal with the Commission.

For this reason, Mr. Sargsyan's appeal under CSC Docket No. C-16-79 is hereby *dismissed*.

As discussed at the pre-hearing conference, if DCR fails to commence a review of Mr. Sargsyan's reclassification request within ninety (90) days, Mr. Sargsyan may file a new appeal with the Commission at that time, with no additional filing fee required.

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) on December 8, 2016.

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:

Norayr Sargsyan (Appellant)

Kenneth Langley, Esq. (for Respondent)