

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

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

**STEPHEN SCIARA &
DOMINIC SCIARA,**

Appellants

v.

TOWN OF HOLBROOK,

Respondent

E-21-095 (Stephen Sciara)

E-21-096 (Dominic Sciara)

**DECISION ON JOINT REQUEST FOR RELIEF
UNDER CHAPTER 310 OF THE ACTS OF 1993**

On May 8, 2021, the Appellants, Stephen Sciara & Dominic Sciara, formerly employed as firefighters in the Town of Holbrook (Town)'s Fire Department, filed non-bypass equity appeals with the Civil Service Commission (Commission) pursuant to G.L. c.31, § 2(b).

A pre-hearing conference was held on June 15, 2021, followed by the submission of briefs by both parties. After reviewing the entire record, I held two status conferences with counsel for the parties on May 17, 2022 and June 9, 2022. Based on the unique circumstances involved in these two appeals, the Commission accepts the joint agreement of the parties and issues the following non-precedent setting orders of relief pursuant to its authority under Chapter 310 of the Acts of 1993:

1. The state's Human Resources Division (HRD) shall place the names of Stephen Sciara & Dominic Sciara at the top of any current or future certifications for Holbrook firefighter until such time as they have been restored to their position(s) as firefighter(s) in the Town's Fire Department or the Town, after consideration, decides not to restore their employment.
2. When the Appellants' names are placed on the top of the certification(s), the Town is permitted to consider, notwithstanding the 2N+1 formula established by the Personnel Administration Rules, one, or two, as warranted, additional candidate(s) (in rank order) from that certification among those willing to accept appointment, depending on the number of vacancies. For example, if there is one vacancy, one additional candidate may be considered. If there are two vacancies, two additional candidates may be considered.
3. If the Town, upon filling a vacancy, decides to restore either Appellant as a Holbrook firefighter, he shall be restored to his position with no back pay. Any civil service seniority shall be determined consistent with an employee being reinstated under G.L. c. 31, § 46.

4. If the Town, upon filling a vacancy, decides not to restore either Appellant as a Holbrook firefighter, he shall have the right to contest the Town's decision by filing an appeal with the Commission within 10 days of being notified of said decision.
5. Upon receipt of a timely appeal from either Appellant, the Commission shall conduct an expedited hearing under the procedures and standards contained in G.L. c. 31, § 41A. Per agreement of the parties, the Commission, applying a just cause standard, will determine whether the Appellant should be restored to the Holbrook Fire Department as a firefighter. If either Appellant is ordered restored by the Commission, he shall be entitled to back pay as of the date of Town's decision not to restore him. Any civil service seniority shall be determined consistent with an employee being reinstated under G.L. c. 31, § 46.

Civil Service Commission

/s/ Christopher Bowman
Chair

By vote of the Civil Service Commission (Bowman, Chair; Stein and Tivnan, Commissioners) on June 15, 2022.

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)(1), 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 to:

Joseph Sulman, Esq. (for Appellant)
Michael Maccaro, Esq. (for Respondent)
Melissa Thomson, Esq. (HRD)
Regina Caggiano (HRD)