

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

SHAWN SOUZA,
Appellant

G1-19-207

v.

MASSACHUSETTS ENVIRONMENTAL POLICE,
Respondent

Appearance for Appellant:

Pro Se
Shawn Souza

Appearance for Respondent:

Julia O’Leary, Esq.
EOEEA
100 Cambridge Street, Suite 900
Boston, MA 02114

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

1. On October 8, 2019, the Appellant, Shawn W. Souza (Mr. Souza), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Massachusetts Environmental Police (MEP) to bypass him for appointment for the position of Environmental Police Officer A/B (EPO A/B).
2. On October 29, 2019, I held a pre-hearing conference which was attended by Mr. Souza, counsel for MEP and counsel for the state’s Human Resources Division (HRD).
3. As part of the pre-hearing conference, counsel for MEP confirmed that Mr. Souza was bypassed for appointment based on a determination that he did not meet the minimum entrance requirements (MEP) of the EPO A/B position.
4. The MERs state that you must have the equivalent to two (2) years of professional or para professional experience in the environmental or related field. Further, in addition to a high school diploma or equivalency, you must have at least two (2) years of full-time, or equivalent part-time, professional or para professional experience in wildlife management; fisheries management; forestry; or conservation law enforcement or related field.

5. The MERs also provide for one year of experience to be substituted through education which not does appear to pertain here.
6. As part of the pre-hearing conference, Mr. Souza listed various experience, which, according to him, taken together, would meet the experience requirement (i.e. – a portion of time spent in his current position of Dartmouth Police Officer on fisheries management issues).
7. Mr. Souza, however, has never quantified this varied experience to show that the experience, taken together, meets the two (2) year requirement.
8. For all of the above reasons, I issued a Procedural Order on October 31, 2019 allowing Mr. Souza thirty (30) days to provide the Commission and MEP with a summary, with accompany documentation, that quantifies all purported experience in a format that would allow MEP to determine whether the cumulative experience meets the MERs. MEP would have thirty (30) days thereafter to review the summary and documentation provided and determine whether the information provided met the MERs.
9. On March 30, 2020, having not received a summary with accompanying documentation from Mr. Souza, I sent him an email stating in part, “Prior to issuing an Order of Dismissal, I wanted to make sure that I did not overlook an email that you sent regarding this matter.” Mr. Souza did not reply to this email.
10. On April 6, 2020, the Appellant replied to my email stating in part: “I was unable to gather any further documentation since the appeal [pre] hearing in regards to further experiences other tha[n] what I originally provided during the interview process. I provided every document I was able to ...”.

Analysis / Conclusion

During the hiring cycle, the Appellant did not provide MEP with sufficient information to determine whether he (the Appellant) met the MERs, nor has he done so as part of this appeal process.

In regard to whether time spent as a police officer, even if a portion of that time is spent on environmental related issue, the Commission has previously concluded that:

The MEP ... [is] reasonably justified to bypass [a candidate] for appointment as an EPO A/B on the grounds that he did not possess the minimum entrance requirements specified for the position as approved by HRD. These requirements call for education and experience that is directly related to the subject of natural resource and environmental protection that are reasonably related to the requirements of the job and have been uniformly applied to all candidates (save for a brief, less than successful experiment that enabled a few candidates to be hired whose qualifications were limited to general police work). The Commission has made clear that, absent proof that job requirements are arbitrary or unequivocally irrelevant to the performance of the duties required of the position, it will defer to the interpretation given to those requirements by the appointing

authority, who is best situated and informed on those matters. See, e.g., Graham v. Department of Conservation & Recreation, 31 MCSR 337 (2018) (DCRs definition of “major park” and other terms); Trubiano v. Department of Conservation & Recreation, 31 MCSR 298 (2018) ...

... [N]either [a] degree in Criminal Justice nor [] general law enforcement experience as a [municipal] Police Officer fit the type of education and experience that MEP deems necessary to meet the minimum entrance requirements.”

Harrell v. Mass. Env. Police, G1-19-065 (2020)

For all of the above reasons, the Appellant’s appeal under Docket No. G1-19-207 is hereby *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 April 23, 2020.

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:

Shawn Souza (Appellant)

Julia O’Leary, Esq. (for Respondent)