

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

BRIAN RYAN,
Appellant

v.

E-17-010

READING FIRE DEPARTMENT &
HUMAN RESOURCES DIVISION,
Respondents

Appearance for Appellant:

Pro Se
Brian Ryan

Appearance for Reading Fire Department:

Nathan Kaitz, Esq.
Morgan, Brown & Joy
200 State Street
Boston, MA 02108

Appearance for Human Resources Division:

Melissa Thomson, Esq.
Human Resources Division
One Ashburton Place: Room 211
Boston, MA 02108

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On January 17, 2017, the Appellant, Brian Ryan (Mr. Ryan), a firefighter in the Town of Reading (Town)'s Fire Department, filed an appeal with the Civil Service Commission (Commission), stating the following:

“My name should have appeared first on fire lieutenant promotional list ahead of 1 person I was tied with. I have 25 years of service giving me veterans benefit, Chapter-31, section-59, paragraph 5. The order of names Chapter- 31, section -26.”

On February 7, 2017, I held a pre-hearing conference at the offices of the Commission which was attended by Mr. Ryan, counsel for the Town, the Town's Fire Chief and counsel for the state's Human Resources Division (HRD).

At the pre-hearing conference, the following was not disputed:

- Mr. Ryan took and passed the promotional examination for Fire Lieutenant on November 15, 2014.
- Mr. Ryan, who has twenty-five (25) years of service, received an additional two (2) points on his examination score.
- His final score, with the two (2) points added in, resulted in Mr. Ryan being ranked fourth on the eligible list for Fire Lieutenant in Reading, tied with one (1) other person.

At the pre-hearing conference, Mr. Ryan argued that his twenty-five (25) years of service entitles him to the same preference as veterans, which he argues means being placed ahead of all non-veterans on the eligible list, including the other person who was tied for fourth and who was subsequently promoted to Fire Lieutenant.

G.L. c. 31, § 59 states in relevant part:

“ ... Notwithstanding the provisions of any law to the contrary, a member of a regular police force or fire force who has served as such for twenty-five years and who passes an examination for promotional appointment in such force shall have preference in promotion equal to that provided to veterans under the civil service rules.”
(emphasis added)

The “preference *in promotion*” granted to veterans is limited to Personnel Administration Rule 14.2 which states:

“In competitive examinations for promotion to any position in the classified official service, the administrator shall add two points to the general average mark obtained by any veteran, as defined in M.G.L. c. 31, §1, providing such veteran has first obtained a passing mark in said examination. A veteran who has also obtained twenty-five years of service shall not receive an additional two points to the general average mark.”

The veterans preference cited in Mr. Ryan’s appeal is related to *original* appointments, in which veterans are placed ahead on non-veterans.

Since, as part of this promotional examination, Mr. Ryan was provided with two (2) additional points required by the civil service rule and since no additional preferences are required in regard to promotional examinations, Mr. Ryan’s appeal under Docket No. E-17-010 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 February 16, 2017.

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:

Brian Ryan (Appellant)
Nathan Kaitz, Esq. (for Reading Fire Department)
Melissa Thomson, Esq. (for HRD)