

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

BRIAN J. CHAPMAN,
Appellant

v.

B2-17-049

HUMAN RESOURCES DIVISION,
Respondent

Appearance for Appellant:

Pro Se
Brian Chapman

Appearance for Respondent:

Mark Detwiler, Esq.
Human Resources Division
One Ashburton Place: Room 211
Boston, MA 02108

Commissioner:

Christopher C. Bowman

DECISION ON MOTION FOR SUMMARY DECISION

On March 17, 2017, the Appellant, Brian J. Chapman (Mr. Chapman), acting pursuant to G.L. c. 31, § 22, timely appealed to the Civil Service Commission (Commission), contesting the decision of the Respondent, the Massachusetts Human Resources Division (HRD), to not provide him with additional training and experience credit for the October 2016 Revere Police Department (RPD) Police Lieutenant Examination.

On March 28, 2017, I held a pre-hearing conference at the offices of the Commission, which was attended by Mr. Chapman and counsel for HRD. HRD subsequently filed a Motion to Dismiss which I have deemed a Motion for Summary Decision. Mr. Chapman was given an opportunity to file a reply. Although he asked for an extension to submit the reply, which was

allowed, no reply was received.

Mr. Chapman is a police sergeant with the RPD. He sat for the RPD promotional examination for lieutenant on October 15, 2016. As part of this examination, he applied for experience and education (E&E) credit. He applied for credit for a master's degree. HRD provides six (6) points for individuals who have obtained a bachelor's degree and three (3) additional points, for a total of nine (9) points, for individuals who have obtained a master's degree. Therefore, HRD awarded Mr. Chapman nine (9) E&E points for his master's degree.

On February 3, 2017, Mr. Chapman filed an appeal with HRD, arguing that he did not receive full credit for his education. HRD received and denied the appeal, sending Mr. Chapman a notice dated February 21, 2017 indicating that no change was made because he was awarded nine (9) points for his master's degree.

On March 17, 2017, Mr. Chapman filed an appeal with the Commission stating:

“I have an associates degree in business management and a bachelors degree in in criminal justice, both from Newbury College. I also have a masters degree from Harvard University in general management. I appeal that according to the examples provided by civil service that I at least have dual degree status. In previous years Civil Service has granted me the maximum education points allowed at 15. In exam year 2016 I was allowed only 9 education points.”

At the pre-hearing conference on March 7, 2016, HRD acknowledged that, in the previous examination cycle, Mr. Chapman was awarded fifteen (15) points, instead of nine (9), as a result of an error.

Summary Decision Standard

Section 1.01(7)(h) of the applicable standard adjudication Rules of Practice and Procedure at 801 CMR provides that, “When a Party is of the opinion there is no genuine issue of fact relating to all or part of a claim or defense and he is entitled to prevail as a matter of law, the Party may

move, with or without supporting affidavits, for summary decision on the claim or defense. If the motion is granted as to part of a claim or defense that is not dispositive of the case, further proceedings shall be held on the remaining issues”. 801 CMR 1.01(7)(h). The notion underlying the summary decision process in administrative proceedings parallels the civil practice under Mass.R.Civ.P.56, namely, when no genuine issues of material fact exist, the agency is not required to conduct a meaningless hearing. See Catlin v. Board of Registration of Architects, 414 Mass. 1, 7 (1992); Massachusetts Outdoor Advertising Counsel v. Outdoor Advertising Board, 9 Mass.App.Ct. 775, 782-83 (1980).

Applicable Civil Service Law

The fundamental purpose of the civil service system is to guard against political considerations, favoritism, and bias in governmental hiring and promotion. The Commission is charged with ensuring that the system operates on "[b]asic merit principles." Massachusetts Assn. of Minority Law Enforcement Officers v. Abban, 434 Mass. 256, citing Cambridge v. Civil Serv. Comm'n., 43 Mass.App.Ct. 300, 304 (1997). "Basic merit principles" means, among other things, "assuring fair treatment of all applicants and employees in all aspects of personnel administration" and protecting employees from "arbitrary and capricious actions." G.L. c. 31, § 1. Personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Civil Service Commission to act. Cambridge at 304.

G.L. c. 31, § 2(b) addresses appeals to the Commission regarding persons aggrieved by "... any decision, action or failure to act by the administrator, except as limited by the provisions of section twenty-four relating to the grading of examinations" It provides, *inter alia*,

"No decision of the administrator involving the application of standards established by law or rule to a fact situation shall be reversed by the commission except upon a finding

that such decision was not based upon a preponderance of evidence in the record.”

In Cataldo v. Human Resources Division, 23 MCSR 617 (2010), the Commission stated that

“... under Massachusetts civil service laws and rules, HRD is vested with broad authority to determine the requirements for competitive civil service examinations, including the type and weight given as ‘credit for such training and experience as of the time designated by HRD.’ G.L. c. 31, § 22(1).”

Analysis

HRD gives applicants who apply for credit for a master’s degree nine (9) points, and not six (6) points for the bachelor’s degree and nine (9) points for the master’s degree individually. This rule is applied uniformly to every applicant.

HRD awards points for the highest degree earned because to do otherwise would cause an individual to double up on points. In order to receive a master’s degree, an individual must first receive a bachelor’s degree. This, according to HRD, is why applicants receive nine (9) points for a master’s degree; it is a combination of six for the bachelor’s and an additional three (3) points for the master’s degree.

In summary, Mr. Chapman received the exact same number of points for his master’s degree as all other applicants who applied for master’s degree credit. Further, his argument that he has “dual degrees” is incorrect. In a case with a very similar fact pattern, the Commission reached the same conclusion in Swan v. Human Resources Division, 28 MCSR 630 (2015).

Conclusion

HRD’s Motion for Summary Decision is allowed and Mr. Chapman's appeal under Docket No. B2-17-049 is *dismissed*.

Civil Service Commission

Christopher C. Bowman

Christopher C. Bowman

Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on May 25, 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 to:

Brian Chapman (Appellant)

Mark Detwiler, Esq. (for Respondent)