



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE  
ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of the Estate of Joseph  
Policastro, Department of Law and  
Public Safety

Administrative Appeal

CSC Docket No. 2019-2954

**ISSUED: June 28, 2019** (SLD)

The Department of Law and Public Safety (DLPS), on behalf of the estate of Joseph Policastro, former Investigator 4, Law and Public Safety, appeals the denial of the request for Mr. Policastro’s Supplemental Compensation on Retirement (SCOR).

By way of background, the appointing authority submitted a request for SCOR on behalf of Mr. Policastro to this agency, indicating that he died September 14, 2018 and that his retirement was to be effective October 1, 2018. The request was denied pursuant to *N.J.A.C.* 4A:6-3.1(b)4 which provides that employees who elect deferred retirement, or whose separation from employment is not based on retirement, shall not be eligible for SCOR.

On appeal, the appointing authority argues that as Mr. Policastro’s disability retirement was approved, but for his death, his separation from employment would have been the result of retirement. Therefore, it argues that as the Division of Pension and Benefits approved Mr. Policastro’s retirement, the request for SCOR should be approved.

**CONCLUSION**

*N.J.S.A.* 11A:6-16 provides, in pertinent part, that:

State employees in the . . . unclassified services who have been granted sick leave under terms and conditions similar to career service

employees, shall be entitled upon retirement from a State-administered retirement system to receive a lump sum payment as supplemental compensation for each full day of accumulated sick leave which is credited on the effective date of retirement.

*See also, N.J.A.C. 4A:6-3.1(a)2.* Additionally, *N.J.S.A. 11A:6-18* and *N.J.A.C. 4A:6-3.1(b)4* provide that an employee who elects deferred retirement, or whose separation from employment is not based on retirement, is not eligible for SCOR. *N.J.S.A. 11A:6-19* provides, in pertinent part, that “[i]f an employee dies after the effective date of retirement but before payment is made, payment shall be made to the employee’s estate.” Therefore, an employee’s eligibility for SCOR is statutorily expressly conditioned on direct retirement from a State-administered retirement system. *See In the Matter of Theodore A. Winard* (MSB, decided April 18, 1995). Moreover, SCOR does not contemplate payment for employees who are separated from State employment in another manner. *See In the Matter of Lois Close* (CSC, decided June 4, 2014) (Commission denied the payment of SCOR to the estate as her separation from employment was due to death and she had not filed for retirement, despite indicating that she was going to file); *In the Matter of Charles Cable* (Commissioner of Personnel, decided October 7, 1997), *aff’d*, A-1637-97T1 (App. Div. March 22, 1999) (Employee who retired more than two years after he was laid off due to inability to find another job was not eligible for SCOR benefits).

In the instant matter, the appointing authority acknowledges that Mr. Policastro’s separation from State service was not due to retirement as the effective date of Mr. Policastro’s retirement was October 1, 2018, several weeks after he had already passed away. The appointing authority argues that since Mr. Policastro’s retirement was approved, his SCOR payment should be processed. While the Commission is sympathetic, SCOR is only available to employees who have left State service due to retirement. *N.J.S.A. 11A:6-18* and *N.J.A.C. 4A:6-3.1(b)4* are clear that when the separation from employment is not due to retirement, or due to a deferred retirement, an employee is not entitled to a SCOR payment. Moreover, as this provision is statutory, it may not be relaxed. Further, *N.J.S.A. 11A:6-19* provides, in pertinent part that “[i]f an employee dies after the effective date of retirement but before payment is made, payment shall be made to the employee’s estate.” However, none of the associated statutory or regulatory provisions provide for payment when an employee dies prior to a retirement effective date. Consequently, as Mr. Policastro’s separation from employment was not due to his retirement, his estate is not entitled to SCOR.

## **ORDER**

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 26TH DAY OF JUNE, 2018



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