



**STATE OF NEW JERSEY**

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

In the Matter of Michael Coppola,  
Palisades Interstate Park  
Commission

Administrative Appeal

CSC Docket No. 2021-1761

**ISSUED: SEPTEMBER 7, 2021 (HS)**

Michael Coppola, a former Chief of Police (Chief) with the Palisades Interstate Park Commission (PIPC), appeals the denial of his request for Supplemental Compensation on Retirement (SCOR).

As background, the appellant was serving as Chief<sup>1</sup> when, commencing July 16, 2018, the PIPC suspended him for three months following the issuance of an Internal Affairs investigation report concerning the appellant by the Bergen County Prosecutor’s Office. On August 9, 2018, while the appellant was out on suspension, he was arrested for allegedly attempting to possess cocaine and possession of drug paraphernalia. The appellant was charged with a third-degree crime and disorderly persons offense. According to an unemployment decision by the New Jersey Department of Labor and Workforce Development’s Appeal Tribunal:

The appellant was advised that there was to be a RICE hearing, and that they were planning on discharging him, due to the charges brought against him. He was not under the protection of a union. He decided to protect his pension, as well as his reputation, and on 08/15/18, he provided a letter of resignation. He applied for his pension with an effective date of 09/01/18, however; due to the pending charges, his pension [was] frozen.

<sup>1</sup> The Chief is in the unclassified service and may be removed by the PIPC after notice and an opportunity to be heard. *See N.J.S.A. 32:14-4.1 and N.J.S.A. 32:14-4.2.*

The Appeal Tribunal determined that the appellant had “resigned in the face of probable discharge with intent to protect his record and pension, and was involuntarily separated from the job.” On September 15, 2020, the Board of Trustees of the Police and Firemen’s Retirement System of New Jersey approved the appellant’s retirement, with a partial forfeiture of benefits, retroactive to September 1, 2018. On or before April 26, 2021, the PIPC forwarded a SCOR application for the appellant to this agency. The following questions were left unanswered on the application:

- Was there a fixed number of days an employee could earn and be credited each year?
- Was sick leave recorded in the same manner for all full time employees?
- Are records concerning use of sick leave maintained?
- Give dates for which sick leave records were maintained and are available.

Based on the appellant’s then-pending charges and the Appeal Tribunal’s finding that the appellant resigned “to protect his pension,” the Division of Agency Services denied the appellant’s SCOR application pursuant to *N.J.A.C. 4A:6-3.1(b)*, which provides, among other things, that employees who retire under circumstances that would warrant removal shall not be eligible for SCOR.

On appeal to the Civil Service Commission (Commission), the appellant maintains that he meets the eligibility criteria found in *N.J.A.C. 4A:6-3.1(a)*. Specifically, he asserts that SCOR distributions have been paid to every Chief before him, and they all met the criteria in *N.J.A.C. 4A:6-3.1(a)*. The appellant proffers that it is “presumptuous” to state that he retired under circumstances that would warrant removal as he was never provided a Preliminary Notice of Disciplinary Action (PNDA), Final Notice of Disciplinary Action (FNDA), or any other departmental disciplinary action related to his August 9, 2018 arrest. The appellant also requests a hearing. In support, the appellant submits, among other documents, a copy of his August 15, 2018 “Letter of Resignation and Retirement,” in which he indicates that he was resigning effective “immediately” and that he had submitted his retirement application to the pension system for a September 1, 2018 retirement.

The PIPC, despite the opportunity, did not submit any information for the Commission’s review.

## CONCLUSION

Initially, SCOR appeals are treated as reviews of the written record. *See N.J.S.A. 11A:2-6b*. Hearings are granted in those limited instances where the

Commission determines that a material and controlling dispute of fact exists that can only be resolved through a hearing. *See N.J.A.C. 4A:2-1.1(d)*. For the reasons explained below, no material issue of disputed fact has been presented that would require a hearing. *See Belleville v. Department of Civil Service, 155 N.J. Super. 517 (App. Div. 1978)*.

An employee may file an application for SCOR within one year of the effective date of retirement. *N.J.A.C. 4A:6-3.4(a)*.

*N.J.A.C. 4A:6-3.1* provides, in pertinent part:

(a) The following employees shall be eligible for supplemental compensation on retirement (“SCOR”):

\* \* \*

2. State employees in job titles in the senior executive service without permanent career service status and in the unclassified service who have been granted sick leave under the following standards:

- i. All employees in that job title are granted sick leave days in the same number and manner as set forth for State career service employees in *N.J.A.C. 4A:6-1.3*;
- ii. Sick leave for all employees in that job title is used, reported, and subject to verification in the same manner required for State career service employees in *N.J.A.C. 4A:6-1.4* and 1.5.

(b) Employees in the categories in (a) above shall be eligible for SCOR upon separation from employment based on retirement from a pension system administered by the State of New Jersey.

1. Employees removed for cause after an opportunity for a hearing, who retire in lieu of removal, or who retire under circumstances which would warrant removal, shall not be eligible for SCOR . . .

A rule may be relaxed for good cause. *N.J.A.C. 4A:1-1.2(c)*.

In this matter, the appellant retired from State service, effective September 1, 2018, but the SCOR application was not forwarded to this agency within one year

of that effective date. However, the Commission recognizes that it was not until September 15, 2020 that the appropriate pension board approved the appellant's retirement *retroactive* to September 1, 2018. Thus, the PIPC could not have forwarded the SCOR application within one year of the effective date of the appellant's retirement. But since it did forward the application within one year of the date the pension board *approved* the appellant's retirement, the Commission will accept the appellant's SCOR application as having been timely filed and proceed to address whether he met the eligibility criteria.

State employees in the unclassified service are eligible for SCOR if all employees in the unclassified title are granted sick leave days in the same number and manner as set forth for State career service employees in *N.J.A.C.* 4A:6-1.3 and sick leave for all employees in the unclassified title is used, reported, and subject to verification in the same manner required for State career service employees in *N.J.A.C.* 4A:6-1.4 and 1.5. *N.J.A.C.* 4A:6-3.1(a)2. While the appellant claims that every previous Chief met the foregoing standard and received SCOR, the pertinent issue is whether the *appellant*, not his predecessors, met the standard. Questions, answers to which might have assisted in addressing that issue, went unanswered on the SCOR application. Thus, there is insufficient evidence in the record that the appellant met the eligibility criteria in *N.J.A.C.* 4A:6-3.1(a)2.

Even assuming, *arguendo*, that the criteria in *N.J.A.C.* 4A:6-3.1(a)2 were met, it is clear that the appellant was not eligible for SCOR pursuant to *N.J.A.C.* 4A:6-3.1(b)1, which provides in relevant part that employees who retire under circumstances that would warrant removal shall not be eligible for SCOR. In this regard, the Appeal Tribunal found that the appellant had been advised that the PIPC was planning to discharge him due to his August 9, 2018 arrest and the associated charges. The Appeal Tribunal further found that the appellant decided to protect his pension and reputation and provided his resignation on August 15, 2018, six days after the arrest. It expressly found that the appellant had "resigned in the face of probable discharge." The appellant's letter of resignation, which he actually termed a "Letter of Resignation *and Retirement*" (emphasis added), indicated that the appellant was resigning *immediately* and that he had applied for retirement. As such, the Commission finds that the appellant retired under circumstances that would warrant removal. The appellant counters that such a finding is "presumptuous" because he was never provided a PNDA, FNDA, or other departmental disciplinary action related to his arrest. This argument is unavailing. *N.J.A.C.* 4A:6-3.1(b)1 specifically provides for three situations involving disciplinary removal where an employee shall not be eligible for SCOR. In the first situation, an employee who has been "removed for cause after an opportunity for a hearing" shall not be eligible. However, the next two situations, employees who "retire in lieu of removal, or who retire under circumstances which would warrant removal," clearly include those situations where an FNDA or even a PNDA were not yet issued. See *In the Matter of Jefferson Nah* (CSC, decided August 1, 2018), *aff'd*, *In the Matter of*

*Jefferson Nah, Office of the Public Defender, Docket No. A-0356-18T1 (App. Div., decided December 27, 2019).*

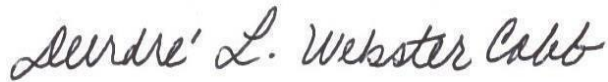
For the foregoing reasons, the appellant is not entitled to SCOR.

**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 1<sup>ST</sup> DAY OF SEPTEMBER, 2021



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