88-O-110

State of New Hampshire

PERSONNELAPPEALSBOARD
State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

Appeal of Conservation Officer Keith Kidder

December 28, 1988

By letter dated August 30, 1988, SEA Field Representative Ann Spear filed with the Personnel Appeals Board a request for a hearing on behalf of Conservation Officer Keith Kidder. The appellant alleged that the Department of Fish and Game had violated per 302.03(b) of the Rules of the Division of Personnel when it denied the appellant a lateral transfer to Patrol Section 216 in the Littleton area. In his appeal, Officer Kidder alleged that "the successful candidate was selected for reasons other than those stated in the rules and before the interview and formal selection process even took place."

On September 12, 1988, Assistant Attorney General Leslie J. Ludtke filed with the Board the State's Motion to Dismiss in the appeal of Conservation Officer Kidder, stating that 'the action appealed by C.O. Kidder is the denial of his request for a lateral transfer to a different patrol area." As such, the State argued that "Per 302.05(b) provide[s] that transfers are subject to appeal only by the affected employee and only when the employee feels that the transfer does not serve the best interests of the agency."

At its meeting of November 22, 1988, the Personnel Appeals Board, Commissioners Cushman, Brickett and Platt sitting, voted unanimously to grant the State's Motion to Dismiss. In so doing, the Board found that Conservation Officer Kidder was ineligible for appeal under the provisions of Per 302.05(b). Based on the evidence presented, the Board found that transfer of the appellant would not have resulted in his promotion as defined by Per 101.28 of the Rules of the Division of Personnel. Therefore, the appellant was not entitled to appeal under the provisions of Per 302.03. Further, had Officer Kidder been denied promotion[1], his appeal would have been untimely under the provisions of Per 302.03(f) of the Rules of the Division of Personnel and Part Per-A 209 of the Rules of the Personnel Appeals Board.

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1 "transfer of an employee from a position in one class to a position in another class having a higher salary grade"

Based upon the foregoing, the Board voted unanimously to grant the State's Motion to Dismiss.

FOR THE PERSONNEL APPEALS BOARD

Mary Ann Steele

MARY ANN STEELE
Executive Secretary

cc: Ann spear
SEA Field Representative

Assistant Attorney General Leslie Ludtke
Environmental Bureau, Office of the Attorney General

Virginia A. Vogel
Director of Personnel

State of New Hampshire

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APPEAL OF CONSERVATION OFFICER KEITH KIDDER
Order on Request for Reconsideration

By letter dated January 17, 1989, SEA Field Representative Ann Spear, on behalf of the appellant Keith Kidder, requested reconsideration of the Board's decision dated December 28, 1988, in the matter of Keith Kidder, an employee of the Department of Fish and Game.

At its meeting of May 10, 1989, the Board voted to affirm its earlier findings, and its decision of December 28, 1988. The request for reconsideration is, therefore, denied.

THE PERSONNEL APPEALS BOARD

Patrick J. McNicholas, Chairman

George R. Cushman, Jr., Member

DATED: May 10, 1989

cc: Ann Spear, SEA Field Representative
Leslie J. Ludtke, Assistant Attorney General
Virginia A. Vogel, Director of Personnel