

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF COSTAS PAPACHRISTOS Department of Transportation Docket #95-O-4

June 7, 1995

The New Hampshire Personnel Appeals Board (Bennett and Rule) met Wednesday, May 17, 1995, to consider the appeal of Costas Papachristos, an employee of the Department of Transportation. After reviewing the pleadings filed by the parties, the Board determined that there were **no material** facts in dispute. Therefore, upon its own motion, the Board voted to decide the matter without evidentiary hearing pursuant to the provisions of Per-A 202.04(a)(1).

By letter dated February 16, 1995, SEA Field Representative Jean Chellis requested a hearing on Mr. Papachristos' behalf to appeal his agency's refusal to establish a new increment date for him of January 12th, the anniversary of his 1988 "re-entrance into state classified service." Ms. Chellis stated that on or about February 6, 1995, Mr. Papachristos was advised by human resources personnel at the Department of Transportation that because he was hired prior to April 27, 1992, his increment date had been established under the former rules and would remain February 1st, the first of the month following the date of employment. Ms. Chellis argued that the Department's refusal to use January 12th as the effective date of his annual increment violated Per 901.03(b) of the current Personnel Rules.

By letter dated May 9, 1995, Personnel Director Virginia Lamberton filed a Motion to Dismiss Mr. Papachristos' appeal, arguing that his increment date had been established in accordance with Per 304.04(d), in effect at the time Mr. Papachristos was employed by the State. Ms. Lamberton argued that there were very limited circumstances under which an employee's increment date could be changed, and that none of those circumstances applied in this instance. Director Lamberton argued that changing Mr. Papachristos' increment date would require the retroactive application of Per 901.03(b). She also argued, "If the Board were to agree with Ms. Chellis' notion that Mr. Papachristos' increment date should be changed because of the new Rules that were adopted on April 27, 1992, then I assume all other changes in the Rules should be applied to employees for decisions that were made prior to April 27, 1992, as well." As an example, Ms. Lamberton noted that employees whose positions which were downgraded prior to April 27, 1992, were allowed to retain their salaries until such time that they changed positions, while those employees occupying positions which were downgraded after April 27, 1992, could only retain the higher salary for a period of two years.

On May 17, 1995, the Board received Ms. Chellis' objection to the Director's Motion. Ms. Chellis argued that the Director's example of retroactive application of the Rules was off point. She argued that the event which required establishment of a new annual increment date was not the adoption of the current Rules in April 1992, but Mr. Papachristos' promotion in the fall of 1994. Ms. Chellis also argued that "...equitable application of Per 901.03(b) to all employees is all that is required to accomplish the change of Mr. Papachristos' increment date." (See May 16, 1995 Chellis letter). The Board does not agree. In order to determine the proper application of the rules to Mr. Papachristos' salary increment, PART Per 901 must be read in its entirety.

Mr. Papachristos was hired prior to adoption of the current Rules of the Division of Personnel. His increment date was established under the former Rules of the Division of Personnel as the first of the month following his date of entrance or re-entrance into State classified service, pursuant to former Per 304.01(g). Since his date of entrance or re-entrance into the State classified service was January 12, 1988, his increment date was established as the first day of the following month, or February 1st. Entrance or re-entrance into State classified service is the "event" which prompts the establishment of an annual increment date. In this instance, that "event" occurred prior to April 27, 1992, and therefore was subject to Per 304.01(g) of the former rules.

The Board found that the Department of Transportation and the Division of Personnel correctly applied the provisions of PART Per 901, and that adjusting his increment date was neither required nor authorized by the Rules of the Division of Personnel. Accordingly, the Board voted to deny Mr. Papachristos' appeal.

THE PERSONNEL APPEALS BOARD



Mark J. Bennett, Acting Chairman



Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Jean Chellis, SEA Field Representative
Fran Buczynski, DOT Human Resources Administrator

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APPEAL OF COSTAS PAPACHRISTOS
Department of Transportation
Docket #95-O-4

July 5, 1995

By letter dated June 14, 1995, SEA Field Representative Jean Chellis requested reconsideration of the Board's June 7, 1995 Decision in the above-captioned appeal, wherein Ms. Chellis argued that, "...the Board did not have good reason" to make the findings which it made in denying Mr. Papachristos' appeal. Ms. Chellis offered no new argument or evidence to support her contention that Mr. Papachristos' increment date should have been adjusted, nor did she set forth any grounds upon which to claim that the decision was unlawful or unreasonable. Accordingly, the Board voted to deny the Appellant's motion. In so doing, the Board voted to affirm its June 7, 1995 decision that the Department of Transportation and the Division of Personnel correctly applied the provisions of PART Per 901, and that adjusting his increment date was neither required nor authorized by the Rules of the Division of Personnel.

THE PERSONNEL APPEALS BOARD

Handwritten signature of Mark J. Bennett in cursive script.

Mark J. Bennett, Acting Chairman

Handwritten signature of Lisa A. Rule in cursive script.

Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Jean Chellis, SEA Field Representative
Fran Buczynski, DOT Human Resources Administrator

The State of New Hampshire

RECEIVED
DIV. OF PERSONNEL *Supreme Court*
JAN 17 10 14 AM '96

No. 95-496 *Appeal of Costas Papachristos*

TO THE CLERK OF PERSONNEL APPEALS BOARD 95-0-4

I hereby certify that the Supreme Court has issued the following order in the above-entitled action:

Dec. 21, 1995 Appeal from administrative agency is declined. See Rule 10(1).

Broderick, J., did not participate.

Attest:


Howard J. Zibel Clerk

January 12, 1996

State of New Hampshire



Personnel Appeals Board
25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-1421

FACSIMILE TRANSMISSION

To: Jean Chellis, SEA Field Representative

Fax: (603) 271-3500

From: Mary Ann Steele

Fax: (603) 271-1422

Re: Decisions – Appeal of Costas Papachristos

Pages: 5 including cover sliet

Jean:

It loolts lilte the decision was done in some other word processing system – as a result, I was unable to send it to you electronically. Sorry.

Mary Ann Steele
June 14, 2002