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Regan v. Dinapoli

Supreme Court, Appellate Division, Third Department, New York - January 21, 2016 - 135 A.D.3d 1225 - 23 N.Y.S.3d 688 - 2016 N.Y. Slip Op. 00415

Petitioner, a teacher who later served as elected town supervisor, brought Article 78 proceeding seeking to review determination of State Comptroller denying petitioner retirement benefits credit for certain years of service. The Supreme Court, Albany County, dismissed petition. Petitioner appealed.

The Supreme Court, Appellate Division, held that:

- Petitioner was not permitted to receive teacher pension benefits and salary as elected official while also accruing service credits towards local retirement system (LRS) pension, and
- Comptroller was not equitably estopped from denying petitioner benefits.

Civil Service Law provision, which prohibited receipt of both a public pension and salary as public official or employee, except for public pensioners who became elected officials, did not permit petitioner to receive both his state teachers' retirement system (TRS) pension benefits and his salary as elected official while simultaneously accruing service credit toward a state and local retirement system (LRS) pension. While provision made no express mention of service credit and instead referred only to benefits already awarded or allotted, it made no reference to accrual of any additional credit for new or greater benefits, and Retirement and Social Security Law provision, which considered petitioner an active member of TRS only if he suspended benefits during his time as elected village justice, meant that, as he did not suspend his TRS benefits while a justice, he was not an active member of LRS and, accordingly, did not accrue additional LRS service credit.

State Comptroller was not equitably estopped from denying petitioner, a teacher who later served as elected town supervisor and village justice, retirement benefits credit for certain years of service. No mistakes made regarding information provided to petitioner rose above level of erroneous advice given by government employee.