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Sherman v. Ohio Public Employees Retirement System

Court of Appeals of Ohio, Tenth District, Franklin County - January 29, 2019 - N.E.3d - 2019 WL 365115 - 2019 Employee Benefits Cas. 27, 944 - 2019 -Ohio- 278

Public employment retiree who returned to public employment brought action against Ohio Public Employees Retirement System (OPERS), alleging it violated his right to equal protection under the State Constitution by reducing his health insurance subsidy while continuing to provide the full subsidy to other similarly situated retirees.

The Court of Common Pleas granted OPERS's motion to dismiss for failure to state a claim upon which relief could be granted. Retiree appealed.

The Court of Appeals held that:

- Retiree was similarly situated to OPERS retirees who were reemployed in non-OPERS-covered positions, and
- OPERS's motion to dismiss for failure to state a claim upon which relief could be granted was deficient.

Public employment retiree who was reemployed in Ohio Public Employees Retirement System (OPERS)-covered position was similarly situated to OPERS retirees who were reemployed in non-OPERS-covered positions for purposes of equal protection analysis under State Constitution; OPERS pension was identical compensation provided to reemployed OPERS retirees who returned to private sector, payment of OPERS pension and salary to same person was not relevant distinction for equal protection purposes, and regardless of who filled a position, an employer was required pay salary and benefits, and employee's status as OPERS retiree did not impose additional costs to State, but policy of withholding health insurance premium subsidies treated OPERS retirees differently.

Ohio Public Employees Retirement System's (OPERS) motion to dismiss for failure to state a claim upon which relief could be granted was deficient in OPERS retiree's action alleging OPERS retirees who returned to public employment were treated differently from OPERS retirees who returned to private sector regarding health insurance subsidy; OPERS did not show how different classification of OPERS retirees who gained reemployment in OPERS-covered position from OPERS retirees who were reemployed in non-covered positions furthered stated rational basis, to protect public fisc, as required to defeat equal protection claim under State Constitution, since OPERS did not explain how policy reduced administrative burdens in a way that linked classification to stated goal.