

MAINE STATE LEGISLATURE

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May 7, 1948

To Earle R. Hayes, Secretary, Employees' Retirement System
Re: Retirement - Edward E. Roderick

Referring to your memo of March 26th relating to the retirement of Edward E. Roderick, Deputy Commissioner of Education, I will say that I have given this matter considerable thought and study. The same has to do with the interpretation of the second paragraph of Subsection VII of Section 6-A of Chapter 384, P.L. 1947. I have also studied the letter which you received from Mr. Perkins, Consulting Actuary of the System.

You state that you would appreciate my opinion as to whether or not I believe that an employee who falls within the provisions of the section of the law referred to must have attained age 60 before being eligible to receive more than one-half-pay benefits.

In reply I will quote Subsection VII, Section 6-A, of Chapter 384, P.L. 1947:

" . . Any employee who is a member of the system for which the date of establishment is July 1, 1942 and who becomes a member prior to July 1, 1947 and who has total prior service credit of at least 22 years, shall be entitled to a total retirement allowance of 1/2 average final compensation, provided he is still a member and has creditable service of at least 25 years on retirement. If any such member should become eligible under the provisions of this system, as a result of prior service and membership, to a retirement allowance in excess of 1/2 of his average final compensation, he shall be entitled to the higher retirement allowance."

Mr. Roderick's prior service certificate credits him with 32 years, 9 months, 21 days' State service prior to July 1, 1942, in conformity with the provisions of Chapter 328, P.L. 1941, as amended. This certificate was issued by the Retirement Board on July 7, 1943.

I rule, under Section 6-A, Subsection VII, of Chapter 384, P.L. 1947, that Mr. Roderick becomes eligible under the provisions of this section, as a result of prior service and membership, to a retirement allowance in excess of one-half of his average final compensation and is entitled to the higher retirement allowance.

It is my opinion that Mr. Perkins, according to his letter of March 20, 1948, to the secretary of the Employees' Retirement System, is in error, when he states, in answer to the question, "How does a person become eligible under this section?" that he must be at least sixty. He refers to the Departments of State Police, State Prison, and Fish and Game, which do not set the age to be at least sixty before members in those departments are eligible for retirement. In my interpretation Subsection VII, Section 6-A, Chapter 384, P.L. 1947, has nothing to do with age. An employee becomes eligible as a result of prior service and membership, as provided by statute.

As to what the higher retirement allowance should be, that is a matter for your Actuary and the Trustees to compute.

Ralph W. Farris, Attorney General