

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

purport to act strictly as a "go-between," and as such would have no dealings, either directly or indirectly, with the actual sale or exchange of real property. Their function, construed strictly, would merely be to assist brokers from various parts of the country in coming in contact with each other relative to a relocating party or parties. They would not share in any commission. Their function is completed at the time that the contact is made between the two brokers, and the subsequent dealings of the parties would be of no concern to the organization.

In conclusion, we find nothing that would be construed to classify the above mentioned organization as a non-resident broker.

WAYNE B. HOLLINGSWORTH

Assistant Attorney General

December 18, 1963

To: Col. Robert Marx, Chief of State Police

Re: Application of Longevity Pay to Retired State Police Officers

Facts:

Private and Special Laws 1951, chapter 214, as amended by P. & S. 1953, c. 166, provides that retired members of the State Police shall after retirement, as provided in chapter 15, section 22, be entitled to certain increments in pay "to a member of their respective grades at the time of retirement."

Private and Special Laws 1963, chapter 202, provides for longevity pay for state employees.

Question:

Are State Police officers retired under chapter 15, section 22, entitled to an increase in retirement pay because of the longevity pay authorized by the legislature?

Answer:

No.

Reasons:

Members of the state police who were appointed on or before July 9, 1943, may retire after 20 or more years with a good record and receive "½ of the pay per year that is paid to a member of his grade at the time of his retirement." R. S. ch. 15, § 22.

Private and Special Laws 1951, chapter 214, as amended by P. & S. 1953, c. 166, says:

"The retired members of the state police shall receive, in addition to their present retirement pay, such additional amounts as will equal ½ of the pay per year that is now paid to a member of their respective grades at the time of retirement (Emphasis supplied).

"The provisions of this act shall become effective July 1, 1953."

(The last paragraph was originally enacted in 1951 for a 2 year period. The 1953 amendment extended it indefinitely.)

This office in an opinion addressed to you under date of February 2, 1960, said of the 1951 law:

"This act, at the time of its enactment, could have resulted, and as we recall, did result, in increases to members in retirement, because the effect of the act was to give to a retired member not $\frac{1}{2}$ the pay he received at the time of retirement, but $\frac{1}{2}$ the pay that would be paid to *a member of the same grade* if he were to retire during the period which chapter 214 (P. & S. Laws 1951) would be in effect." (Emphasis supplied).

The underlined words "a member of their respective grades," in the law, and "a member of the same grade" in the opinion, are the key words. In other words, a Sergeant upon retirement under chapter 15, section 22, would receive $\frac{1}{2}$ of the pay per year that is paid to all Sergeants. After retirement, if the pay of a Sergeant's *grade* was increased, the retired Sergeant would be entitled to a corresponding increase in pension.

In 1963, the legislature enacted chapter 202 of the Private and Special Laws.

"It is the purpose of this act to place into effect, as of applicable pay checks dated on or after January 1, 1964, longevity provisions for state employees.

"Said longevity provisions shall amount to a 5%, or a one-step increase as provided in the State Personnel Board's Compensation Plan for Classified Positions, after completion of 8 years of service with the State, . . . and an additional 5%, or one-step increase as provided in the State Personnel Board's Compensation Plan for Classified Positions, after 15 years of service with the State, . . ."

This act is based solely on the length of service of an individual state employee. It has no relation to the position or grade which an employee holds. It applies equally to the highest or lowest paid state employee. In your organization one Sergeant (to continue use of the same example) may get no longevity, another may get a "5%, or a one-step increase" and a third may get the same as the second plus "an additional 5%, or one-step increase." In other words, you may have Sergeants with less than 8 years service, Sergeants with 8 to 15 years, and Sergeants with over 15 years service.

Longevity is, therefore, a recognition personal to an individual for his personal length of service. It, therefore, follows that it does not increase the salary of a specific position or grade. Hence, it cannot be considered for the purpose of increasing a retired state police officer's pension.

GEORGE C. WEST,
Deputy Attorney General

December 19, 1963

To: Joseph T. Edgar, Deputy Secretary of State

Re: Definition of "Consumer Goods" as Contained in the Uniform Commercial Code

Facts:

The 101st legislature passed the Uniform Commercial Code. Conditional sales contracts covering consumer goods are to be recorded with the Clerk