

MAINE STATE LEGISLATURE

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September 15, 1972

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Retirement

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Retirement; Forest Ranger; interchangeability

SYLLABUS:

A forest ranger is a law enforcement officer and the retirement benefits of such officer and a law enforcement officer in the Department of Inland Fisheries and Game are substantially similar, permitting such an officer to retire after 25 years of combined such service and age 50 under 5 M.R.S.A. § 1121, Subsection 1E, pursuant to 5 M.R.S.A. § 1121, subsection 11.

FACTS:

Subject employee has been and still is a forest ranger from April 2, 1962. From June, 1949 until September 1956, he was a law enforcement officer in the Department of Inland Fisheries and Game.

QUESTION:

Can the earlier service in the Department of Inland Fisheries and Game be combined with the current service in the Forestry Department so as to permit a retirement allowance after 25 years of combined such service and age 50 under 5 M.R.S.A. Section 1121, subsection 1E (Forestry)?

ANSWER:

Yes.

REASONS:

5 M.R.S.A. § 1121, subsection 1D provides:

"D. Any law enforcement officer in the Department of Inland Fisheries and Game and any law enforcement officer in the Department of Sea and Shore Fisheries may retire upon completion of 20 years of creditable service as a law enforcement officer in the Department of Inland Fisheries and Game or a law enforcement officer in the Department of Sea and Shore Fisheries, but must retire at attainment of age 55, except that any person, who was a law enforcement officer in the Department of Inland Fisheries and Game or a law enforcement

officer in the Department of Sea and Shore Fisheries on July 1, 1956, may continue in service until age 60 is attained and forthwith shall be retired. Any person who is a law enforcement officer in the Department of Inland Fisheries and Game or the Department of Sea and Shore Fisheries and who will not have 20 years of creditable service at the time age 55 is attained may continue in said service until 20 years is attained and forthwith shall be retired. Military service credits as allowed under section 1094 shall not be considered as part of the creditable service as a law enforcement officer under this section, but that any military service creditable under section 1091 shall be considered to be part of the creditable service necessary for the 20 years as a law enforcement officer, provided that he was a law enforcement officer in either of said departments at the time of entrance into said military service and upon separation from military service again became a law enforcement officer in either of said departments. The total amount of the service retirement allowance of a law enforcement officer retired in accordance with this paragraph shall be equal to 1/2 of his current annual salary."

5 M.R.S.A. § 1121, subsection 1E provides:

"E. Any forest ranger in the Forestry Department may retire at attained age 50 or upon completion of 25 years of total creditable service as a forest ranger in the Forestry Department, whichever is the later. Retirement shall be compulsory at the attainment of age 60. Except that any forest ranger in the Forestry Department who will not attain the 25 years of creditable service at age 60 may be permitted to continue in his employment until age 63 in order to obtain the 25 years of creditable service necessary. The total amount of the service retirement allowance of a forest ranger in the Forestry Department retired in accordance with this paragraph shall equal to 1/2 of his current annual salary."

5 M.R.S.A. § 1121, subsection 11 provides:

"11. Law enforcement officers. Any service retirement benefits, accruing to a law enforcement officer under this section, which are substantially similar or equal, shall be interchangeable."

12 M.R.S.A. § 524 provides:

"Forest rangers under the direction of the commissioner shall have supervision of the forest fire protection program, including all personnel and facilities of all types. They shall investigate and gather evidence regarding the causes of fires, enforce all laws relating to forest and forest preservation, cause the arrest of all violators thereof, prosecute all offenses against the same, and in this connection shall have the same power to serve criminal process against such offenders as a sheriff or his deputy, and shall have and enjoy the same rights as a sheriff to require aid in executing the duties of their office, including the right to deputize temporary aides."

It seems clear from the foregoing provisions that a forest ranger is a law enforcement officer and that the retirement benefits of a law enforcement officer in the Department of Inland Fisheries and Game are substantially similar to the retirement benefits of a law enforcement officer in the Forestry Department. Accordingly, the retirement benefits which accrued to subject employee while a law enforcement officer in the Department of Inland Fisheries and Game can be combined with the retirement benefit accruing to this employee as a law enforcement officer in the Forestry Department so as to permit him to retire under 5 M.R.S.A. § 1121, subsection 1E when he completes 25 years of combined such service and age 50, pursuant to 5 M.R.S.A. § 1121, subsection 11.

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