

MASSACHUSETTS APPEALS COURT

Commissioners of Civil Service v. Third District Court of Eastern Middlesex

2 Mass. App. Ct. 89 (1974) · Decided March 26, 1974

SUMMARY

The Massachusetts Appeals Court reviewed a petition for certiorari challenging a District Court decision that reversed a Civil Service Commission suspension of a police officer who negligently discharged his service revolver. The court held that the 1970 amendment to G. L. c. 31, § 45, did not expand judicial review into a retrial and that the Commission’s decision was justified and supported by the record. The District Court’s decision was set aside, and the Commission’s suspension order was affirmed.

CASE DETAILS

COURT	Massachusetts Appeals Court
WRITING FOR THE COURT	Hale, C.J.
JURISDICTION	Massachusetts
DECIDED	March 26, 1974
DISPOSITION	reversed
PROCEDURAL POSTURE	Petition for a writ of certiorari under G. L. c. 249, § 4, seeking to set aside a District Court decision that reversed a Civil Service Commission suspension order.
STANDARD OF REVIEW	Judicial review under G. L. c. 31, § 45, is review of the administrative record rather than a judicial retrial. The reviewing court may affirm if the Commission’s decision was justified and may reverse only on the statutory grounds, including constitutional violation, excess of authority, error of law, unlawful procedure, lack of substantial evidence, or arbitrariness, capriciousness, abuse of discretion, or other unlawfulness.
PRECEDENTIAL VALUE	Published Massachusetts Appeals Court opinion; precedential.
PARTIES	Commissioners of Civil Service, another v. Third District Court of Eastern Middlesex, David A. O’Leary

TOPICS

judicial review of agency action

administrative law

standard of review

statutory interpretation

appellate procedure

PRACTICE AREAS

administrative law

employment law

civil service

QUESTIONS PRESENTED

1. Whether the 1970 amendment to G. L. c. 31, § 45, enlarged the scope of District Court judicial review of Civil Service Commission suspension proceedings.
2. Whether the District Court properly set aside the Commission's suspension decision as arbitrary when the Commission's findings and decision were supported by the record.

HOLDINGS

1. The 1970 amendment to G. L. c. 31, § 45, did not enlarge the essential scope of judicial review of Civil Service Commission decisions. Review remains judicial review of the administrative proceeding, not a judicial retrial or substitution of the reviewing judge's judgment for that of the agency.
2. The appointing authority's and Commission's actions were fully justified, and the District Court erred in setting them aside as arbitrary. The District Court improperly substituted its judgment for that of the administrative officers without applying the statutory standards of judicial review.

KEY QUOTATIONS

““‘Review’ indicates ‘a re-examination of a proceeding . . . for the purpose of preventing a result which appears not to be based upon the exercise of an unbiased and reasonable judgment. It does not import a reversal of the earlier decision honestly made upon evidence which appears to an unprejudiced mind sufficient to warrant the decision made”” (2 Mass. App. Ct. at 93)

““‘Justified’ in connection with ‘review’ means ‘done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law.’”” (2 Mass. App. Ct. at 93)

FACTUAL BACKGROUND

David A. O’Leary, an off-duty Metropolitan District Commission police officer, invited a friend to his apartment and consumed several cans of beer. While demonstrating his service revolver, O’Leary failed to verify that the weapon was unloaded, kept his finger on the trigger, and fired while the gun was pointed at his friend, wounding him in the neck. The appointing authority found that O’Leary violated the police division’s rule against conduct unbecoming an officer through careless and negligent handling of his service revolver and imposed a six-month unpaid suspension. A Civil Service Commission hearing officer found the conduct careless and negligent, and the Commission affirmed the suspension.

PROCEDURAL HISTORY

O’Leary, a Metropolitan District Commission police officer, was suspended for six months without pay after accidentally shooting a friend while handling his service revolver off duty. The Civil Service Commission affirmed the suspension. O’Leary sought review under G. L. c. 31, § 45, and a District Court judge set aside the Commission’s decision, ordered back pay, and awarded attorney’s fees. The Commissioners then sought certiorari in the Supreme Judicial Court; the matter was transferred to the Appeals Court and reported to a panel.

DISPOSITION

reversed

REMAND INSTRUCTIONS

A single justice was directed to enter an order overruling O’Leary’s demurrer. Judgment was to enter setting aside the District Court decision in its entirety, and an order was to be entered in the District Court affirming the Civil Service Commission’s decision.

CASES CITED

- Commissioners of Civil Serv. v. Municipal Court of the City of Boston, 359 Mass. 211, 214, 216 (1971)
- Selectmen of Dartmouth v. Third Dist. Court of Bristol, 359 Mass. 400, 402-403 (1971)
- Haywood v. Municipal Court of the City of Boston, 359 Mass. 760 (1971)
- Raytheon Co. v. Director of the Division of Employment Security, 364 Mass. 593, 595 (1974)

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