
Program: Benefit Services Division

Item Type: Action

Parties’ Positions

Staff argues that the Board of Administration should adopt the Proposed Decision.

Respondent Santosh Kumari’s (Respondent) position is included in Attachment C, if any.

Strategic Plan

This item is not a specific product of either the Strategic or Annual Plans. The determination of administrative appeals is a power reserved to the Board of Administration.

Procedural Summary

Respondent signed and submitted an application for service retirement pending industrial disability retirement with CalPERS, based on claimed podiatric (left foot) and psychiatric (depression) conditions. Respondent claimed both conditions stemmed from a workplace injury she sustained on November 9, 2010. CalPERS denied the application. Respondent service retired effective November 15, 2013. Respondent did not appeal the determination to deny her application for industrial disability retirement. On April 14, 2015, Respondent signed and thereafter filed a second application for disability retirement with CalPERS, requesting a change in retirement status from service to disability retired. The 2015 application for disability retirement was again based upon claims of disability because of a left foot condition and depression.

On May 6, 2015, CalPERS Staff requested additional information from Respondent to evaluate her request to change status from service retirement to disability retirement, eighteen months after her retirement date. On November 17, 2015, Staff notified Respondent that she was not substantially incapacitated on the basis of a podiatric (left foot) condition. The letter did not address the claimed disability on the psychiatric (depression) condition. The denial of the 2013 application for industrial disability retirement was with respect to the claimed psychiatric condition. Respondent timely appealed this determination and the matter was heard by the Office of Administrative Hearings on December 12, 2016 and May 31, 2017. A Proposed Decision was issued on August 7, 2017, denying the appeal.
Alternatives

A. For use if the Board decides to adopt the Proposed Decision as its own Decision:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System hereby adopts as its own Decision the Proposed Decision dated August 7, 2017, concerning the appeal of Santosh Kumari; RESOLVED FURTHER that this Board Decision shall be effective 30 days following mailing of the Decision.

B. For use if the Board decides not to adopt the Proposed Decision, and to decide the case upon the record:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, after consideration of the Proposed Decision dated August 7, 2017, concerning the appeal of Santosh Kumari, hereby rejects the Proposed Decision and determines to decide the matter itself, based upon the record produced before the Administrative Law Judge and such additional evidence and arguments that are presented by the parties and accepted by the Board; RESOLVED FURTHER that the Board’s Decision shall be made after notice is given to all parties.

C. For use if the Board decides to remand the matter back to the Office of Administrative Hearings for the taking of further evidence:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, after consideration of the Proposed Decision dated August 7, 2017, concerning the appeal of Santosh Kumari, hereby rejects the Proposed Decision and refers the matter back to the Administrative Law Judge for the taking of additional evidence as specified by the Board at its meeting.

D. Precedential Nature of Decision (two alternatives; either may be used):

1. For use if the Board wants further argument on the issue of whether to designate its Decision as precedential:

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System requests the parties in the matter concerning the appeal of Santosh Kumari, as well as interested parties, to submit written argument regarding whether the Board’s Decision in this matter should be designated as precedential, and that the Board will consider the issue whether to designate its Decision as precedential at a time to be determined.

2. For use if the Board decides to designate its Decision as precedential, without further argument from the parties.

RESOLVED, that the Board of Administration of the California Public Employees’ Retirement System, hereby designates as precedent its Decision concerning the appeal of Santosh Kumari.
Budget and Fiscal Impacts: Not applicable

Attachments

Attachment A: Proposed Decision
Attachment B: Staff’s Argument
Attachment C: Respondent(s) Argument(s)

DONNA RAMEL LUM
Deputy Executive Officer
Customer Services and Support