

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2017 CA 1329

BESSIE J. HALL

VERSUS

LOUISIANA STATE EMPLOYEES' RETIREMENT SYSTEM

Judgment Rendered: **FEB 21 2018**

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**Appealed from the
19th Judicial District Court
In and for the Parish of East Baton Rouge
State of Louisiana
Case No. C650135**

The Honorable R. Michael Caldwell, Judge Presiding

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BEFORE: McCLENDON, WELCH, AND THERIOT, JJ.

THERIOT, J.

This appeal arises from a summary judgment of the Nineteenth Judicial District Court vacating a decision by the appellant, Louisiana State Employees' Retirement System (LASERS), to deny eligibility of the appellee, Bessie J. Hall, to apply for disability retirement benefits. The trial court also remanded the case to LASERS for processing of Ms. Hall's application. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

The underlying facts of the instant case are undisputed by the parties. Ms. Hall was employed by the State of Louisiana from January 29, 1996 to September 25, 2013. During her entire term of state service, Ms. Hall was enrolled in LASERS. She suffered a workplace injury on July 13, 2012 while employed by the Louisiana Department of Children and Family Services (LDCFS) and received a notice of proposal of non-disciplinary removal from said agency on August 29, 2013. The notice stated she was unable to perform the essential functions of her job due to her disability. LDCFS subsequently terminated Ms. Hall's state service on September 25, 2013.

Ms. Hall left state employment credited with 17.2 years of service. She applied for disability retirement benefits on February 16, 2016, almost three years after she left state service. By letter dated March 9, 2016, the executive counsel of LASERS determined Ms. Hall to be ineligible to apply for disability retirement benefits. Ms. Hall appealed this decision.

By letter dated June 27, 2016, the deputy general counsel of LASERS transmitted notice of the Board of Trustees' decision to deny the appeal. Ms. Hall filed a petition for review with the trial court on July 27, 2016.

Both Ms. Hall and LASERS filed motions for summary judgment.¹ The trial court signed a judgment on June 12, 2017, which granted Ms. Hall's motion for summary judgment, vacated LASERS' decision, remanded the matter to LASERS so that Ms. Hall's application could be processed, and cast LASERS with costs. It is from this judgment that LASERS appeals.

ASSIGNMENTS OF ERROR

LASERS alleges three assignments of error:

1. The trial court erred by concluding that La. R.S. 11:212(A) did not bar Ms. Hall from applying for disability retirement after leaving state service.
2. The trial court erred by concluding that La. R.S. 11:212(C) implicitly granted the right for Ms. Hall to apply for disability retirement after leaving state service.
3. The trial court erred by failing to take into account the vesting requirement found in La. R.S. 11:217 which grants certain persons outside of state service eligibility to apply for disability retirement.

STANDARD OF REVIEW

This case involves the correct interpretation of La. R.S. 11:212 and 11:217. Because this matter involves the interpretation of statutes, it is a question of law, and is thus reviewed by this Court under a *de novo* standard of review. *Red Stick Studio Development, L.L.C., v. State ex rel. Dept. of Economic Development*, 2010-0193 (La. 1/19/11), 56 So.3d 181, 187.

DISCUSSION

The starting point in the interpretation of any statute is the language of the statute itself. *Id.* When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the legislature. La. C.C. art. 9. However, when the language of the law is

¹ The motions were heard separately.

susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law. La. C.C. art. 10.

Louisiana Revised Statutes 11:212 states, in pertinent part:

A. A member who becomes disabled, and who is not eligible for regular retirement, and who files for disability benefits while in service, and who upon medical examination and certification, as provided for elsewhere in this Subpart, is found to be totally disabled for any cause, shall be entitled to disability benefits under the provisions of R.S. 11:461(B), provided the member has at least ten years of creditable service, and provided that the disability was incurred while the member was an active contributing member in active state service.

...

C. If the application for disability benefits is not filed while the member is in state service, it shall be presumed that the disability was not incurred while the member was an active contributing member in active service. Such presumption may be overcome only by clear, competent, and convincing evidence that the disability was incurred while the member was an active contributing member in active service.

Louisiana Revised Statutes 11:217 states:

Any member of a state or statewide retirement system who has completed twenty years of creditable service, and who has withdrawn from active service prior to the age at which he is eligible to begin receiving retirement benefits, shall be eligible in the event of total and permanent disability, for the lesser of all nonservice related disability benefits provided by his retirement system, or the normal vested retirement benefit. Upon attaining the normal vested retirement age, his disability benefit shall cease and he shall receive his full vested regular retirement.

In the hearing on the motion for summary judgment, LASERS argued that La. C.C. art. 13² requires laws of the same subject matter to be read together; therefore, Ms. Hall is not eligible to apply for retirement benefits under La. R.S. 11:212 because she had not yet reached twenty years of state service to become eligible for disability retirement under La. R.S. 11:217. According to LASERS, La. R.S. 11:217 sets the standard for eligibility to

² Louisiana Civil Code art. 13 states: "Laws on the same subject matter must be interpreted in reference to each other."

apply, while La. R.S. 11:212(C) is an exception for those applicants still in state service. The trial court disagreed with LASERS's interpretation of the statutes, stating that La. R.S. 11:217 does not address the presumption contained in La. R.S. 11:212(C); rather, La. R.S. 11:212 deals exclusively with state employees becoming disabled during state service.

We agree with the trial court's interpretation of these two statutes, and we do not find that the statutes must be read together in the way suggested by LASERS. While laws pertaining to the same subject matter should be read *in pari materia*, laws should not be given an interpretation that makes any part superfluous or meaningless. See *Holly & Smith Architects, Inc. v. St. Helena Congregate Facility, Inc.*, 2006-0582 (La. 11/29/06), 943 So.2d 1037, 1045. LASERS's interpretation of the two statutes would render La. R.S. 11:212(C) meaningless.

Louisiana Revised Statutes 11:212(A) entitles state employees with at least ten years of service to disability benefits under La. R.S. 11:461(B), provided the applicant became disabled while being an active member in state service and filed for benefits while in state service. Ms. Hall does not meet all these criteria. While she did have at least ten years of state service and allegedly became disabled while an active member in state service, she did not apply for benefits while in state service.

Louisiana Revised Statutes 11:212(C) addresses the situation in which Ms. Hall finds herself. If the application for disability is not filed while in state service, it is presumed the disability was not incurred while the member was in active state service; however, this presumption can be overcome by clear, competent, and convincing evidence that the disability was incurred while the member was in active state service. Ms. Hall filed her application for retirement disability benefits almost three years after being terminated

from state service. Therefore, it is presumed her disability was not incurred during her state service.

Under La. R.S. 11:212(C), Ms. Hall is afforded an opportunity to present clear and convincing evidence that her disability was incurred while she was in state service. From reading the plain language of La. R.S. 11:212, Ms. Hall's eligibility is completely addressed. No reading of any other statute is necessary.

Louisiana Revised Statutes 11:217 provides that LASERS members who have attained twenty years of state service, who have not yet vested in regular retirement benefits, may apply for disability retirement benefits. The statute makes no distinction between whether the member incurred the disability during state service or not, and thus La. R.S. 11:217 does not create a rebuttable presumption as to when the disability incurred. The statute makes no reference to La. R.S. 11:212, and neither does La. R.S. 11:212 make reference to La. R.S. 11:217. The plain reading of both statutes makes it clear that La. R.S. 11:217 is not applicable to Ms. Hall's circumstance because she has not attained twenty years of state service. Since Ms. Hall has between ten and twenty years of state service, La. R.S. 11:212 is the statute applicable to her circumstance.

CONCLUSION

Ms. Hall is entitled to apply for disability retirement benefits under La. R.S. 11:212. The appeal before us only pertains to her right to apply, and in no way affects the merits of her claim to those benefits.

DECREE

The summary judgment of the Nineteenth Judicial District Court in favor of the appellee, Bessie J. Hall, is affirmed. All costs of this appeal,

totaling \$678.00, are assessed to the appellant, the Louisiana State Employees' Retirement System.

AFFIRMED.