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Tiernan v. Magaziner, 270 A.3d 25 (R.I. 2022)

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Public Disability Pension and Worker’s Compensation. *Tiernan v. Magaziner*, 270 A.3d 25 (R.I. 2022). The Rhode Island Supreme Court decided an issue of first impression on the construction of two inconsistent statutes regarding whether State employee disability retirement pension benefits must be offset by the amount of any workers’ compensation benefits paid to the recipient.¹ The Court ruled that a recipient of a state disability pension could not receive a coordinated workers’ compensation benefit without a corresponding reduction to the disability retirement pension.

FACTS AND TRAVEL

On April 25, 2002, Sandra Tiernan suffered disabling injuries during her employment for the State of Rhode Island.² As an employee of the State, Ms. Tiernan was a member of the Employees’ Retirement System of the State of Rhode Island (ERSRI).³ Due to her injuries, Ms. Tiernan was granted workers’ compensation benefits from 2002 to 2009.⁴ In March of 2005, ERSRI approved Ms. Tiernan’s application for a disability pension and awarded benefits of \$688.13 per month.⁵ However, because she continued to receive workers’ compensation benefits of \$1,064 per month, which exceeded the disability pension by roughly \$376 per month, ERSRI did not pay a disability pension at that time.⁶ Ms. Tiernan’s workers’ compensation benefits continued until March 1, 2009, when her disability retirement payments began.⁷ The Workers’

1. The statutes at issue are R.I. GEN. LAWS § 36-10-31(1956) (concerning reductions to public retirement system benefits due to workers’ compensation payments) and R.I. GEN. LAWS § 28-33-45 (1992) (concerning coordination of workers’ compensation and retirement benefits).

2. *Tiernan v. Magaziner*, 270 A.3d 25, 27 (R.I. 2022).

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

Compensation Court (WCC) granted a final coordinated benefit award of \$332.80 per month, which included deductions to the ERSRI disability pension due to the workers' compensation payments that exceeded the disability pension from 2005 to 2009.⁸

In late 2009, counsel for Ms. Tiernan contested the amount of the reduced benefits and filed suit in Rhode Island Superior Court seeking (1) a declaratory judgment that Ms. Tiernan was entitled to the coordinated benefit without the reduction for the workers' compensation payments, (2) an administrative appeal to the WCC decision, and (3) asserting a claim of estoppel to prevent the reduction in disability pension benefits due to the prior overpayments.⁹ At issue in the suit was whether the provision in worker's compensation law or the provision in the disability pension law was controlling.¹⁰

The trial court granted summary judgment to ERSRI on all three claims in February 2016.¹¹ In granting summary judgment, the trial court noted that as it pertained to claims (1) and (2), section 28-33-45 and section 36-10-31 "appear[ed] to be contradictory[.]" but the trial court nonetheless found section 28-33-45 to be governed by section 36-10-31.¹² The trial court also granted summary judgment in favor of ERSRI on the estoppel claim (3), noting that Ms. Tiernan did not show all of the elements to prove estoppel.¹³

Ms. Tiernan appealed the decision of the trial court, arguing "that the offset provision in section 36-10-31 applied to payments made pursuant to section 28-33-45, the coordinated-benefits provision," and the Court accepted the petition for appeal in April 2020 based on the sole issue of the apparent conflict of the two statutes.¹⁴

8. *Id.*

9. *Id.* at 28-29.

10. *Id.* at 28.

11. *Id.* at 28-29.

12. *Id.*

13. *Id.* at 29.

14. *Id.*

ANALYSIS AND HOLDING

On appeal, the Rhode Island Supreme Court reviews questions of law regarding statutory construction de novo.¹⁵ When faced with conflicting statutes, the Court holds that “courts should attempt to construe two statutes that are in apparent conflict so that, if at all reasonably possible, both statutes may stand and be operative.”¹⁶ The Court also notes that only if the statutes are “irreconcilably repugnant” may a court determine that the older statute is considered to be impliedly repealed by the newer.¹⁷ The crux of the Court’s analysis turns on the doctrine that a specific provision of a statute governs when it conflicts with a general provision of another statute on the same or similar subject.¹⁸ The Court noted that when facing statutes that are contradictory, the Court will “adhere to the principle that ‘the specific governs the general.’”¹⁹

Here, the Court concluded that because both statutes address the application of workers’ compensation benefits at the time of retirement, both section 36-10-31 and section 28-33-45 are related to the same subject.²⁰ The Court then turns to the statutes themselves to compare the contrasting provisions to determine which of the statutes presents the specific and general provisions. From section 36-10-31 (the statute governing the State retirement system) the Court emphasizes that the statute provides that “[a]ny amount paid or payable under the provisions of any workers’ compensation law. . . shall be offset against and payable in lieu of any benefits payable out of funds provided by the state under the provisions of this chapter on account of the death or disability of the member.”²¹ As it pertains to section 28-33-45(a), the Court emphasizes that “[i]t

15. *Id.* at 30 (citing *Waterman v. Caprio*, 983 A.2d 841, 844 (R.I. 2009) (regarding statutory construction) and *State v. Poulin*, 66 A.3d 419, 423 (R.I. 2013) (noting review is limited to issues of law in administrative appeals)).

16. *Tiernan*, 270 A.3d at 31. *See* *Such v. State*, 950 A.2d 1150, 1156, (quoting *Shelter Harbor Fire District v. Vacca*, 835 A.2d 446, 449 (R.I. 2003)).

17. *Tiernan*, 270 A.3d at 31. *See also* *Such*, 950 A.2d at 1156 (quoting *McKenna v. Williams*, 874 A.2d 217, 241 (R.I. 2005) (Suttell, J., concurring in part and dissenting in part)).

18. *Tiernan*, 270 A.3d at 30-31 (citing R.I. GEN. LAWS § 43-3-26).

19. *Tiernan*, 270 A.3d at 30 (citing *Felkner v. Chariho Regional School Committee*, 968 A.2d 865, 870 (R.I. 2009) and quoting *Morales v. Trans World Inc.*, 504 U.S. 374, 384 (1992)).

20. *Tiernan*, 270 A.3d at 31.

21. *Id.* *See also* R.I. GEN. LAWS § 36-10-31.

is the intention of the general assembly that at retirement a person receiving benefits under chapters 29-38 of this title shall receive compensation and retirement benefits in a sum equal to the greater of the compensation or retirement benefits for which that person was otherwise eligible.”²² In reading those two passages, the Court also references the definitions within the worker’s compensation act which note that the act applies to “any person who has entered into the employment of or works under contract of service or apprenticeship with any employer[.]”²³

The two statutes conflict where the worker’s compensation statute (section 28-33-45(a)) states that the coordination of benefits shall be the greater of workers’ compensation or retirement benefits, whereas the State retirement system statute (section 36-10-31) requires a deduction to pension benefits in the amount of other benefits payments made for death or disability.²⁴ The Court finds that while section 28-33-45 applies to all employees of any employer, section 36-10-31, because it applies to a narrower subset of employees, namely, employees of the State, is the more specific statute on the issue of whether or not workers’ compensation should be offset in a disability pension benefit.²⁵ Once the Court determines that section 36-10-31 is the specific and therefore controlling statute, the Court rules that “State employees are subject to the offset set out in section 36-10-31.”²⁶ The Court, in *Waterman v. Caprio*, previously explored the relation between workers’ compensation payments and disability pensions, finding that the broad language in section 36-10-31 encompassed not just “traditional” workers’ compensation benefits under “any workers’ compensation law.”²⁷ In *Waterman*, the Court explained the policy rationale behind section 36-10-31, noting that the State Legislature sought to “ensure that money received under any workers’ compensation claim is offset against disability retirement payments to prevent a State employee from recovering twice.”²⁸

22. *Tiernan*, 270 A.3d at 31-32; *see also* R.I. GEN. LAWS § 28-33-45(a).

23. *Tiernan*, 270 A.3d at 32; *see also* R.I. GEN. LAWS. § 28-29-2(4).

24. *Tiernan*, 270 A.3d at 31-32.

25. *Id.* at 32.

26. *Id.*

27. *Waterman*, 983 A.2d at 845; *see also* R.I. GEN. LAWS. § 36-10-31.

28. *Tiernan*, 270 A.3d at 32 (citing *Waterman*, 983 A.2d at 845).

COMMENTARY

The Court found that the Rhode Island General Assembly enacted section 36-10-31 to prevent State employees from receiving multiple recoveries from the State for the same injury.²⁹ Knowing the purpose of the statute is key to determining if there is an operative difference in being a public or private employee. Once someone is an employee of the State, the statute addressing State employee retirement benefits becomes controlling over the statute addressing any workers' compensation claim.

The Court's decision does, however, leave open certain opportunities for critique. While section 28-33-45(a) states that employees "shall receive compensation and retirement benefits in a sum equal to the greater of the compensation *or* retirement benefits for which that person was otherwise eligible," the Court does not seem to cue on the significance of the "or" in the statute.³⁰ The statute's use of the word "or" allows for an interpretation where the workers' compensation benefit does not have to be combined with any other retirement benefits if the employee is eligible for one available benefit. In receiving a State disability pension, Ms. Tiernan was covered by section 36-10-31 and subject to the offset provision which reduced the disability pension benefit that she was eligible for. However, if she were no longer eligible for workers' compensation benefits, then the opposing side of the "or" would not be a factor in determining which benefit was greater, as her only eligible benefit would be the disability pension. If the recipient of benefits is subject to section 36-10-31 and previously received benefits in excess of a benefit that they were not or are no longer eligible for, then the offset and reduction would be proper under both statutes because there would be nothing "greater than" their one eligible benefit. Yes, the Court arrives at the proper conclusion, but it may have been beneficial to discuss the significance played by the "or" between the types of benefits in section 28-33-45(a) in its decision.

Justice Goldberg also raises two points worth mentioning in the dissent. First, had Ms. Tiernan known that she would face offsetting deductions to her benefits and ultimately receive lower disability pension benefit payments, she may not have pursued the

29. *Id.*

30. See R.I. GEN. LAWS. § 28-33-45(a) (emphasis added).

disability pension at the time that she did.³¹ Moreover, a consequence of the majority's holding may be to lead other employees of the State or municipalities who are eligible for ERSRI disability pensions to remain on workers' compensation longer (based on eligibility) before they transition to disability pensions. Indeed, as the majority defers to legislative intent, the abovementioned consequences are not likely to be the desirable or foreseeable outcome sought by the legislature.³² This is a valid and pertinent concern, and while the State may desire that disabled employees transition to their ERSRI disability pension, this ruling may lead to perverse incentives where a disabled State employee may elect to receive workers' compensation instead of transitioning to their disability pension because the statutes do not align.

Lastly, the dissent argues that when section 28-33-45(a) states "sum," it must mean that the funds come from more than one source.³³ However, in a financial sense, a "sum" may mean nothing more than "a quantity or amount of money" with no connotation as to the source of the funds.³⁴ Perhaps this would be a stronger argument if section 28-33-45(a) stated that the beneficiary "receives the *sum of* the compensation *and* retirement benefits," but the statute does not.

CONCLUSION

The Rhode Island Supreme Court held that section 36-10-31 governs when in conflict with section 28-33-45 and that a beneficiary of a State disability pension could not receive a coordinated workers' compensation benefit without a corresponding reduction to the disability retirement pension. The Court determined that the purpose of section 36-10-31, to prevent duplicate recoveries from the State, leads section 36-10-31 to be the more specific statutory provision and as a result, the specific governs the general.

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31. *Tiernan*, 270 A.3d at 36.

32. *Id.* at 36.

33. *Id.* at 34.

34. *Sum*, OXFORD ENGLISH DICTIONARY (3d ed. 2019).