

## **RESOLUTION NO. 9108**

### **A RESOLUTION OF THE BOARD OF ADMINISTRATION FOR THE FEDERATED CITY EMPLOYEES' RETIREMENT SYSTEM ADOPTING FINDINGS, CONCLUSIONS, AND DECISION IN THE MATTER OF THE APPLICATION OF ZAHRA SEDAGHATPOUR FOR A CHANGE IN STATUS FROM A SERVICE RETIREMENT TO A SERVICE-CONNECTED DISABILITY RETIREMENT**

The application of Zahra Sedaghatpour for a change in status from a service retirement to a service-connected disability retirement was heard by the Board of Administration for the Federated City Employees' Retirement System (the "Board") at its regularly scheduled meeting on February 16, 2023.

Ms. Sedaghatpour was present at the hearing and was offered an opportunity to present witnesses and documentary evidence, cross examine the City's Return-to-Work Coordinator, and the representative of her employing department, and to present a closing argument.

### **DOCUMENTARY EVIDENCE**

Extensive documentary evidence was submitted to the Board in this matter and reviewed by the Board.

### **FINDINGS**

Having considered all relevant evidence presented in this matter, the Board adopts as its findings the findings set forth in the memorandum of the Disability Committee and attached as Attachment A to this resolution.

### **CONCLUSIONS**

1. Ms. Sedaghatpour is applying for a change in status from a service retirement to a service-connected disability retirement benefit on the basis of injuries sustained to her right hand and finger, left hand, right shoulder, left shoulder, neck, and right shin, allegedly arising out of and in the scope of her employment with the City of San Jose while a member of the Retirement System.
2. The Board of Administration as a fiduciary is obligated to administer the retirement provisions of the San Jose Municipal Code applicable to Ms. Sedaghatpour's application.
3. The Municipal Code at section 3.28.1210 requires that an applicant be incapacitated from the performance of duties.

<b>NOTICE TO APPLICANT: PURSUANT TO SAN JOSE MUNICIPAL CODE SECTION 1.16.010, THE TIME IN WHICH TO SEEK JUDICIAL REVIEW OF THIS DECISION IS GOVERNED BY SECTION 1094.6 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE.</b>
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4. The Municipal Code at section 3.28.1210 requires that an incapacity to be “service-connected” must arise and result from an injury...arising out of and in the course of the applicant’s employment while the applicant was a member of the retirement system.

5. The Board possesses the discretion to weigh the evidence and make determinations as to incapacity and service-connection.

6. Ms. Sedaghatpour bears the burden of persuasion of establishing by a preponderance of the evidence that she was incapacitated and that her incapacity was service connected.

7. The Board adopts as its own conclusions those set forth in the memorandum from the Disability Committee attached as Attachment A to this resolution that Ms. Sedaghatpour’s conditions were not incapacitating and, assuming for the sake of argument that one or more of them were, none of them, except for her right hand/finger, were service connected.

### **DECISION AND ORDER**

It is the DECISION AND ORDER of the Board of Administration for the Federated City Employees’ Retirement System that the Findings and Conclusion stated above are adopted, and that the application of Zahra Sedaghatpour for a change in status from a service retirement to a service-connected disability retirement be, and hereby is, **DENIED** with prejudice on the grounds that Ms. Sedaghatpour has not established that she has a service-connected disability for retirement purposes.

ADOPTED the 16th day of February, 2023, by the following vote:

AYES: Jennings, Avasthy, Chandra, Keleher, Linder

NOES: None

ABSENT: Horowitz

ATTEST:

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ROBERTO L. PENA  
Secretary

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