



Ruling expands veterans' access to federal jobs

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July 15, 2008-- A recent decision from the Merit Systems Protection Board could open hundreds of law enforcement and other jobs to veterans who previously bumped up against age restrictions during the application process.

MSPB ruled on July 2 that the State Department must waive maximum entry age requirements for veterans applying to become special agents at the Diplomatic Security Service.

The case, *Isabella v. Department of State*, stems from a claim filed by Robert Isabella, a preference-eligible veteran who applied for a special agent position at the department. The job description called for someone 37 or younger; Isabella was 36 when he applied and when he turned 37, the agency stopped processing his application. The reasoning was that he was too close to the cutoff age.

But MSPB found that this violated Isabella's rights under the 1944 Veterans Preference Act, the 1998 Veterans Employment Opportunities Act, and the 1994 Uniformed Services Employment and Reemployment Rights Act. The ruling pointed to a section of the Veterans Preference Act that requires federal agencies to waive maximum age rules for preference-eligible applicants unless the age requirement is essential to the performance of the work.

The board determined that in this case the sole purpose of the age restriction was to allow agents to enjoy a full career before reaching the mandatory retirement age, which is normally 57, but can be extended three years to 60 if the agency has a particular need.

"Being 37 is not critical to the job," said Mathew Tully, the attorney who represented Isabella, on Tuesday. "[State] has special agents up to age 60, and if you could be 60 and a special agent, it's not a critical element of the job."

MSPB ordered State to waive the age requirement for Isabella and finish processing his application.

Tully said the ruling opens up to veterans 280 federal law enforcement and firefighter jobs that used to have age restrictions. The only other field that is not covered by the ruling is air traffic control, which has a maximum entry age of 30. But Tully said the ruling for law enforcement positions would make winning a second case for air traffic control "relatively easy."

"It's crucial that veterans are knowledgeable about the laws that can help them get an edge in federal employment," Tully said. "The more who know, the more who will become federal employees."