

Court of Appeals, State of Michigan

ORDER

Juanita Lee v State Employees Retirement System

Docket No. 314917

LC No. 11-009325-AA

Kurtis T. Wilder
Presiding Judge

Christopher M. Murray

Michael J. Riordan
Judges

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the February 5, 2013, order of the Wayne Circuit Court reversing the decision of the Michigan State Employees' Retirement Board hereby is REVERSED. The Board did not have discretion to retire petitioner where the Independent Medical Advisor did not certify that she is totally and permanently disabled. The Legislature has unambiguously limited the Board's discretion to circumstances where an employee has met *all* of the statutory criteria of MCL 38.21, including an IMA's certification of total disability. *Polania v State Employees' Retirement Sys*, 299 Mich App 322, 332-333; 830 NW2d 773 (2013). Moreover, the record contained substantial, competent and material evidence that petitioner was not entitled to retirement benefits where it is undisputed that the IMA refused to certify that petitioner was totally and permanently disabled. The case is REMANDED to the circuit court for entry of an order affirming the Board's decision.

This order is to have immediate effect, MCR 7.215(F)(2).

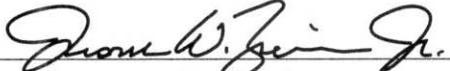
The Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

SEP 05 2013

Date


Chief Clerk