

Bittersweet victory

By Adrian Walker, Globe Columnist | June 15, 2006

You might think that a public agency roughly \$8 billion in the red wouldn't want to waste money.

You might even think that such an agency would have better things to do than waste hundreds of thousands of dollars pursuing a labor claim in which it was wrong from the word go.

But if you think that, then you don't know about the MBTA, and its 12-year legal battle against Geraldine Ross, a battle that is about to cost the agency -- and the public that pays for it -- dearly.

Ross, 56, was a part-time bus driver in 1987 when she injured her back aboard the bus. Her seat suddenly collapsed, she says, and she tumbled to the floor.

She was a relatively new driver who would have become a full-time driver in time. Instead, she became a part-time fare collector.

In 1988, she sought to become a full-time fare collector. The T sent her a letter saying she would soon be promoted and then reneged. That began a nightmare for Ross, who struggled to make ends meet on the part-time salary.

"When I received that letter, I moved to Waltham to better support my son and get him out of the drug area, and then it never happened," Ross said in a recent interview. "They kept passing me by."

She continued working and filed a discrimination complaint. "I've been under a lot of stress," she said recently. "I've been working two and three jobs, whatever I could fit into my schedule."

According to MBTA officials, the agency was following a long-standing policy that prevented people who had been hired to work on bus lines from becoming full-time employees on the subway. It was just another archaic rule, which the MBTA, in its heedless, boneheaded way, obeyed without a hoot about how it harmed employees like Ross.

Ross filed a complaint with the Massachusetts Commission Against Discrimination in 1994. The MCAD found in her favor in 1999. The T lost an appeal in 2002, then prolonged the case for four more years while attempting to have it heard first in federal

court and then in state court.

Does the phrase "cut your losses" mean anything to the people who make decisions at the T? Along the way Ross left the T, but not voluntarily. The agency says she retired; she says she was fired. That dispute is the subject of a separate court case.

The MCAD found for Ross and ordered the T to pay her \$144,500 in 1999. By continuing to pursue a pointless case, the MBTA has allowed interest and lawyers' fees to accrue and now owes nearly triple that much to Ross and her attorneys. Not that they have seen a penny.

"They've been fighting this case for 12 years now," her lawyer, Shannon Liss-Riordan, said. "This is a very straightforward case. They should have realized that a long time ago and moved on."

MBTA spokesman Joe Pesaturo said yesterday that the latest ruling will not be appealed. He and another T official said the only remaining hurdle is to calculate the amount owed, adding that they dispute the calculations by Ross's lawyers.

Their conciliatory tone was a tad confusing, because just Tuesday they notified Liss-Riordan that the MBTA intends to appeal.

"We've instructed outside counsel to withdraw that notice of appeal, so there will be no appeal," Pesaturo said. That's their final answer, as of yesterday.

It has taken the T so long to see the light that the fare collector position Ross fought so hard for is about to be phased out for good.

It's nice that the agency finally decided to do the right thing.

But, after all these years, there is only so much comfort in that for Ross.

"I haven't really been doing anything but living under stress," she told me. "I owe so many people who supported me that there's really nothing left for me."

She added: "Sometimes I walk down the street and I'm crying like a baby."

It's a bittersweet victory in a battle that should never have begun.

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