

JANUARY 8, 1951.

HON. GEORGE M. BORDEN, *Secretary,*
State Employees' Retirement System,
1 West State Street, Trenton, N. J.

FORMAL OPINION—1951. No. 2

DEAR MR. BORDEN:

Receipt of your letter of December 22nd is hereby acknowledged. As we understand it, an employee of the State Highway Department has applied for retirement effective January 1, 1951. This employee had joined the retirement system for the second time on January 1, 1934 and some time in September of 1949, it is stated, he deposited in full the amount required to reinstate 7 years 1 month of membership credit under his previous or first enrollment. You inquire whether in as much as this highway employee has served considerably more than five years since the beginning of the second enrollment on Jan. 1, 1934 and has completed a redeposit as aforesaid, can credit be given to him on the retirement date for 7 years 1 month under his previous enrollment.

The answer is no.

R. S. 43:14-55 provides as follows:

"Should an employee * * * be eligible to renew his membership, and has been or shall hereafter be re-enrolled as a member, and has paid or shall hereafter pay into the annuity savings fund the amount which he previously withdrew, there shall be restored his annuity credit, and in addition, upon the completion of five years thereafter, his pension shall be restored as it was at the time of his withdrawal."

In the instant case, the highway employee having reinstated his membership credit for a period of 7 years 1 month on or about September of 1949 entitled that employee to restoration of his annuity credit, but as he has failed to complete the term of five years after said payment as an employee of the highway department, his pension credit has not been restored.

Yours very truly,

THEODORE D. PARSONS,
Attorney General.

By : JOHN W. GRIGGS,
Deputy Attorney General.

JWG:N