STATE OF NEW YORK

2988--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to judgments in favor of a petitioner in article 78 proceedings relating to disability pensions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 7806 of the civil practice law and rules, as amended by chapter 318 of the laws of 1962, is amended to read as follows:

§ 7806. Judgment. The judgment may grant the petitioner the relief to which he is entitled, or may dismiss the proceeding either on the merits or with leave to renew. If the proceeding was brought to review a determination, the judgment may annul or confirm the determination in whole or in part, or modify it, and may direct or prohibit specified action by the respondent**, provided, however, that when the determination being reviewed is a determination by a pension or retirement system of the state or civil division thereof denying the petitioner a disability pension, the court may review all questions of law and fact de novo, annul the determination and grant the petitioner the requested disability pension**. Any restitution or damages granted to the petitioner must be incidental to the primary relief sought by the petitioner, and must be such as he might otherwise recover on the same set of facts in a separate action or proceeding suable in the supreme court against the same body or officer in its or his official capacity.

§ 2. This act shall take effect immediately and shall apply to all appeals that have been filed but not yet adjudicated.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

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