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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN : CIRCUIT COURT : WASHINGTON COUNTY
BRANCH I

WEST BEND EDUCATION ASSOCIATION,

Petitioner,

Case No. 81-CV-294

vs.

WISCONSIN EMPLOYMENT RELATIONS
COMMISSION,

DECISION

Respondent.

Decision No. 18512

Initially this case involved a circuit court review of a declaratory ruling made by the Wisconsin Employment Relations Commission (Commission). In that declaratory ruling the Commission, interpreting Sec. 111.70(1)(d), Stats., held that the staff reduction proposal made by West Bend Education Association (WBEA) to the West Bend Joint School District No. 1 (School District) was not a mandatory subject of bargaining within the meaning of the Municipal Employment Relations Act (MERA), so far as it provided that (1) teacher layoffs be done pursuant to the time frame and provisions of Sec. 118.22, Stats., and that (2) layoffs begin only at the end of the current school year.

On August 31, 1982, this Court, the Honorable J. Tom Merriam presiding, and based on its prior decision, entered an order (West Bend) that reversed the Commission's declaratory ruling and adjudged that the aforementioned portion of the WBEA proposal is a mandatory subject of bargaining within the meaning of MERA.

The Commission then, on September 30, 1982, together with the School District appealed West Bend to the Court of Appeals. That appeal is pending; appellants have neither sought nor been granted any stay pending the appeal.

On December 7, 1982, WBEA, the Wisconsin Education Association Council and the Plymouth Education Association filed a mandamus action in this Court (case no. 82-CV-642) seeking to require the Commission to fully comply with and implement West Bend in all pending and future declaratory proceedings before the Commission which might involve the same proposal language as that construed in

West Bend.

On stipulation of the parties in case no. 82-CV-642, this Court on January 24, 1983, entered an order that further proceedings in that mandamus action be held in abeyance and that the mandamus petition be treated as a petition in case no. 81-CV-294 for enforcement of West Bend against the Commission, seeking injunctive and other relief compelling the Commission to comply with and implement West Bend in all pending and future declaratory ruling proceedings on a uniform, state-wide basis.

Oral argument on the petition for enforcement was held on January 17, 1983. The petitioning Wisconsin Education Association Council appeared by its staff counsel, Michael L. Stoll, and by its consulting staff counsel, Robert E. Lindquist. The respondent Commission appeared by Bronson C. LaFollette, Attorney General, and David C. Rice, Assistant Attorney General, by Mr. Rice.

Both sides concede that this Court has power to entertain the petition and to rule thereon notwithstanding the current status of West Bend's being on appeal.

The petitioners do not allege any failure of the Commission to comply with West Bend in its handling of the particular matter involving the WBEA and the School District which initially gave rise to the Commission's declaratory ruling.

Rather, petitioners state that the Commission, in its case XXVI, No. 30455, DR(M)-255, in which the Plymouth Joint School District has asked for a declaratory ruling, and in similar pending cases before it, has failed to comply with West Bend to hold that a contract proposal for implementing teacher layoffs is a mandatory subject of bargaining.

Petitioners allege that in these other cases before it the Commission refuses to comply with this Court's decision as to the law and that it refuses to prevent municipal employers from refusing to bargain over provisions for implementing teacher layoffs. It alleges that such refusal is demonstrated by refusing to find such provisions to be mandatory subjects of bargaining in connection with the Plymouth matter and in matters involving other

similarly situated municipal employers.

The Commission admits it has allowed municipal employers to litigate before it with declaratory ruling proceedings in matters involving the same proposal this Court in West Bend held to be a mandatory subject of bargaining (asserting that Secs. 111.70(4)(b) and (cm) 6q, Stats., require it to do so). The Commission further admits its belief that West Bend is not precedent binding it in pending or future declaratory ruling matters. The Commission asserts that it will not disclose in advance how it will rule in any pending or future declaratory ruling proceeding.

The basic issue as presented upon the pleadings is whether on the petition now before this Court the Commission should be made to issue rulings in all pending and future declaratory matters consistent with West Bend.

There is nothing in to indicate that the Commission was doing other than to follow the usual and customary course of dealing with the West Bend matter on a case-by-case basis. It was not promulgating a broad rule to apply to all similar situations, even had it been in a position to then do so.

The Commission may or may not be persuaded to handle other matters before it involving declaratory rulings in other matters involving teacher layoff provisions in conformity with West Bend. But this Court upon the pending petition in this case is not empowered to compel it to do so.

This Court's order quite clearly was directed only to its decision that WBEA's contract proposals to the School District concerning implementation of teacher layoffs were mandatory subjects of bargaining and to nothing more.

Petitioners contend that West Bend granted prospective relief in subsequent declaratory rulings proceedings before the Commission involving other teacher associations and other school boards as well as to grant retroactive relief in the particular situation brought to Court.

The petitioners contend that if this Court does not in this proceeding enforce its reasoning in West Bend upon the Commission

in all other declaratory ruling matters involving the same kind of teacher layoff proposal as was considered in West Bend, this Court's state-wide jurisdiction is challenged and the validity and dignity of its judgment is negated.

Nothing in this record mandates the Commission to comply with this Court's ruling and reasoning in any other proceeding than the specific one involving WBEA and the School District. Enforcement of West Bend is confined to that specific bargaining situation.

An unreversed circuit court decision in this state rules only the particular case in which it was rendered. Neither statute nor case law nor custom nor Supreme Court rule give it precedential value as to other cases; nor is the Commission required to follow such a decision in other matters particularly where, as here, it has been appealed from.

Dated this 27 day of April, 1983.

BY THE COURT

15/ DAVID L DANCEY
David L. Dancey
Reserve Circuit Judge

cc: Atty. Michael L. Stoll
Atty. David C. Rice