

STATE OF WISCONSIN

BEFORE THE STATE BOARD OF PERSONNEL

Evelyn Aspatore, Eugene Backes and
George Baumhardt,

Appellants,

vs.

C. K. Wettengel, Director
State Bureau of Personnel,

Respondent.

MEMORANDUM DECISION

The Appellants are employed by the Department of Health and Social Services in the Division of Corrections. They formerly held the civil service title of Prison Record Clerk 1 (SR 1-07). Aspatore and Backes are employed at the Wisconsin State Prison, Waupun.

At the request of the Department, the Bureau surveyed and reviewed the registrar functions at the Department's institutions.

As a result of said survey and review, the Respondent Director recommended to this Board the establishment of the new classes of Institution Record Clerk to be assigned to salary range 1-07 and Institution Registrar 1, 2 and 3 and to be assigned to salary ranges 1-08, 1-09 and 1-10, respectively. At the same time he recommended that the classes of Prison Record Clerk 1 (SR 1-07) and Prison Record Clerk 2 (SR 1-08) be abolished.

This Board on May 15, 1970 formally approved the recommendations of the Respondent Director.

It thereupon became necessary for the Respondent Director to allocate the incumbents of the abolished positions to the newly created classes. On June 15, 1970, he allocated the positions of each of the Appellants who had been Prison Record Clerk 1 (SR 1-07) to the class of Institution Record Clerk (SR 1-07).

It is from this action that the Appellants have taken this appeal under s. 16.05(1) Wis. Stats.

The appeals are based on two contentions; (1) that the position of Institution Record Clerk has been placed in a salary range too low, and (2) that the duties and responsibilities of the position of the respective Appellants are substantially identifiable with the position of Institution Registrar.

This Board does not deem it necessary to conduct a hearing on these appeals because it is of the opinion that from the documentation in the case, it is fully advised.

As to contention (1):

This Board has in the past concluded that it has no jurisdiction to entertain appeals from the abolition of classes, creation of new classes or the assignment of classes to salary ranges. These "actions" of the Director are taken pursuant to s. 16.105 Wis. Stats. and by its authority. In Neff v. Wettengel, decided December 22, 1969, this Board said:

"While it is an action of the Director in the literal sense, the Board does not consider it to be the type of action that s. 16.05 Wis. Stats. declares is appealable to this Board. Such actions are not unilateral on the part of the Director. They become bilateral because this Board as the "watchdog of the civil service" has participated in said actions by giving its approval thereto. It must be presumed that this Board in considering whether or not it should approve the Director's action has fully considered the rights of all "interested" parties. This Board cannot subscribe to the anomaly that it should hear a challenge of an action in which it has participated."

It may well be that the Appellants have a justifiable grievance in that their positions were assigned to salary range 1-07 rather than to a higher salary

range. If so, they must seek redress directly from the courts rather than by an appeal to this Board.

As to contention (2):

The Board believes that in pursuing this contention the Appellants meet an insurmountable barrier. In approving the new classes of Institution Registrar, this Board committed itself to the proposition that the positions functioning alone in a small records unit; that the position of Institution Registrar 2 is reserved for supervisors of medium record units; that the position of Institution Registrar 3 is reserved for supervisors of large record units.

The Appellants do not work alone in a small record unit. They all work in a large record unit. None of them is the supervisor of that large record unit. Regardless of the importance, complexity and significance of their work and regardless of the experience, training and competence required, they cannot be considered registrars and nothing can convince this Board to the contrary. Not working alone and not supervising a unit, the position of the Appellants is allocated to the class where it belongs, Institution Record Clerk.

Each of the appeals should be dismissed.

Dated: Sept 19 1970, 1970.

STATE BOARD OF PERSONNEL

BY

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John A. Sarge
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