STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

FREDERICK J. BROWN,

Petitioner,

vs.

STATE BOARD OF PERSONNEL,

Respondent.

DECISION ON REVIEW

Case No. 122-389

Before Hon. Richard W. Bardwell, Judge.

This is a review under Chapter 227 of a decision, findings of fact, conclusions of law, and order of the State Board of Personnel dated April 21, 1967, sustaining petitioner's discharge by his appointing authority, Mr. C. Hayden Jamison, Executive Director of the State of Wisconsin Investment Board.

The petitioner, Frederick J. Brown, was appointed to the position of director of real estate and mortgage investments of the Investment Board on September 28, 1961. He successfully passed his probationary period and attained permanent status on April 1, 1962. This was accomplished during the tenure of Mr. Jamison's predecessor.

The position here at issue is one of three directorships of the State Investment Board. The other two deal with stock investments, bond purchases, and corporate loans. These three positions are in salary range 22, the very highest in the State classified service, and each carries a salary up to $25,000 per year. Indicative of the high status of these three directorships is that in the range immediately below (range 21), there are likewise only three positions, while in salary range 20 there are 36 positions.

Moreover, when a vacancy occurs in one of the investment directorships, the Investment Board of Trustees is permitted to fill the position under section 16.17(4), stats., which allows nationwide recruiting and suspends the necessity of any competitive examination. This unusual procedure is followed presumably because there are so few people capable of filling these high level jobs.

In any event, by July 19, 1966, Executive Director Jamison had become dissatisfied with Brown's performance, and he wrote Brown a letter indicating his intention to terminate petitioner's employment as of the end of 1966. The letter of July 19th also invited Brown to seek other employment.

On November 28, 1966, Jamison wrote the following letter of discharge:

> "Dear Mr. Brown:
>
> This is the official notice of the termination of your employment with the Investment Board on December 31, 1966. I refer you to letters addressed to you dated July 19, 1966 and September 19, 1966. Both letters alerted you to the termination of your employment on December 31, 1966.
>
> I am most anxious to assist you in any way I can in making the transition to a new position. Please let me know how I can help. I have instructed Mrs. Dahl to remove your name from the payroll at December 31, 1966.
>
> I appreciate all your efforts on behalf of the investment board and wish you well in your new undertaking."

The above letter incorporates by reference Jamison's reasons for being dissatisfied as expressed in his letter of July 19th. Basically there were three reasons:

(1) Brown's division had failed to generate a reasonable volume of real estate investments of the quality demanded by the Board;

No proof (2) Brown was not sufficiently familiar with the accounting procedures employed by the division which caused the major burden of work to fall on the shoulders of his assistant;

No proof

(3) The follow-up work on mortgage investments which had been closed was being performed by Mr. Wedlake of the Attorney General's office rather than by Brown.

It is interesting to note that grounds 2 and 3 above were not documented at the hearing and were not relied upon by the respondent Personnel Board in sustaining the discharge.

On December 5, 1966, petitioner filed a formal notice of appeal. Thereafter, on December 12, 1966, Jamison wrote Brown a detailed letter setting forth grounds for the discharge. This letter, of course, was written after the formal discharge and merely amounted to testimony on the part of Jamison justifying his action. The letter of December 12th was accepted as part of Jamison's testimony at the hearing before the Personnel Board.

Hearings were held before the Board on January 20, 1967 and February 25, 1967. The record of the two hearings consists of approximately 250 pages of testimony. Petitioner was represented by counsel at these hearings, while Executive Director Jamison appeared in pro. per.

On April 21, 1967, the State Board of Personnel rendered a memorandum decision, findings of fact, conclusions of law, and an order sustaining the discharge and dismissing the appeal. A review of the Board's action was then instituted by the petitioner under Chapter 227. Oral argument was heard by the court on August 18, 1967, and we have been favored with very detailed and exhaustive briefs by counsel for petitioner and Assistant Attorney General Robert Vergeront representing the respondent Board.

On this review we are concerned principally with the findings of fact made by the Board.

Section 16.24(1)(a) provides in material part as follows:

> "No permanent employe in the classified service who has been appointed under ss. 16.01 to 16.32 shall be discharged except for just cause, which shall not be religious or political."

The above section was construed in the leading case of Bell vs. Personnel Board, 259 Wis. 602, and also more recently in Mahoney vs. State Personnel Board, 25 Wis.(2d) 311.

Those two cases establish that our function, on review, is to determine first whether or not the Board's findings of fact are legally sufficient to constitute "just cause" for discharge. If they are, the court then must determine whether the findings are supported by substantial evidence in view of the entire record. Copland v. Department of Taxation, 16 Wis. (2d) 543, 554.

Finally, assuming the Board's findings are either insufficient or unsupported by the evidence, the court must then determine whether the record, apart from the findings, would support a discharge for "just cause."

We make this latter point because in Bell vs. Personnel Board, supra, the circuit court reversed the findings and decision of the Personnel Board and ordered Bell, a discharged high level employe of the M. V. D., reinstated. In that case the Personnel Board had made certain findings that the Commissioner of Motor Vehicles, the appointing authority, had reason to believe that his deputy Bell was not cooperating in carrying out the commissioner's administrative policies and also that the commissioner had reason to believe that Bell was not administering his department properly, was over-lenient to trucking violators and favored the creation of a state police force contrary to the wishes of the commissioner.

The Supreme Court agreed with the circuit judge that the

above findings were legally insufficient as it was not what the commissioner believed but rather what the actual facts were with respect to alleged derelictions in office which might constitute "just cause" for discharge. Thus, in that case the high court determined that the record did contain substantial evidence which might have sustained the discharg had the Board made proper findings. Consequently, the case was remanded to the Personnel Board for further proceedings. It is interesting to note that the Bell case is the only reported authority we could locate in Wisconsin which deals with the discharge of a high level civil service employe.

Here the Board made the following findings of fact:

"1. The Appellant was employed in the classified service as an investment director with the State Investment Board on September 18, 1961, and attained permanent status on April 1, 1962. The Appellant, as one of three investment directors, was responsible for the real estate and real estate mortgage investments of the State Investment Board during the entire course of his employment with the State of Wisconsin;

"2. The positions of investment director are the highest grade positions in the Administrative and Professional Schedule of the classified service and require of the incumbents extraordinary experience, capability, and performance;

"3. The seven trustees of the State Investment Board, who determine policy, and the executive director, who executes and administers that policy, decided that the ratio of real estate and real estate mortgage investments to the entire investment portfolio should be increased. On the basis of their knowledge and experience that such investments of the type and quality required were available and that more could be obtained, Appellant was mandated to increase the volume of investments that he was charged with originating;

"4. Despite continuous urging and receipt of expressions of disappointment and dissatisfaction with his performance, over a period of several months, Appelland did not increase the volume of real estate and real estate mortgage investments, nor did he take any steps to generate more of that type of investments;

"5. It is the prerogative of the trustees of the State Investment Board to establish standards of performance for its investment directors. It is the duty of the executive director to enforce those standards;

"6. The Appellant, as an investment director, did not perform up to the standards set for him by the trustees of the investment board;

"7. The standard of performance set by the trustees of the investment board for the Appellant was neither so unreasonable as to be without rational basis nor the result of an unconsidered, willful, and irrational choice of conduct. The decisions thereto were neither arbitrary nor capricious;

"8. As of December 21, /31/ 1966, Respondent discharged the Appellant from employment in the classified service of the State of Wisconsin on the grounds, among others, that the volume of real estate and real estate mortgage investments originated by the Appellant did not meet the standard of performance set for him by the trustees of the State Investment Board;

"9. The action of discharge was not motivated by either political or religious reasons;

"10. The discharge of the Appellant by the Respondent as of December 31, 1966, from his position of investment director in the State Investment Board, a position in the classified service of the State of Wisconsin, was for just cause that was not religious or political."

Capsulized the above findings add up to the following grounds for the discharge. Jamison and the trustees demanded greater production from Brown which was not forthcoming. Further, Brown failed to meet the standards of performance set by the trustees. The question, therefore, is do the foregoing grounds found by the trustees constitute "just cause" for the discharge under the law.

The term "just cause" is defined by H. Eliot Kaplan in his treatise on The Law of Civil Service at page 257 as follows:

"Some statutes purport to spell out what constitutes 'just cause' as a ground for dismissal. This term similar to 'for the good of the service' generally embraces such shortcomings as incompetency, inefficiency, insubordination, infidelity, neglect of duty, absence from duty, conduct unbecoming an officer or employee, malfeasance, misfeasance, exercise of unusually bad

judgment, commission of a crime, discrediting the service, disloyalty, refusal to testify when lawfully required, derogatory remarks against a superior or other employe, absence without leave, soliciting bribes, drunkenness, false statement made in course of employment, failure to report when ordered, uncooperativeness, unprofessional conduct, accepting gratuities, fraud in examination or appointment, and virtually any other dereliction which among reasonable-minded men might not be viewed as specious or trivial."

15 Am. Jur. 2d, Civil Service, Section 36, p. 497 defines "just cause" as follows:

> "Under a statute requiring 'just cause' for the removal, discharge, or demotion of an officer or employee in the classified civil service, the quoted words mean cause sufficient in law, or any cause which is detrimental to the public service. Legal cause for disciplinary action exists if the facts found by the commission disclose that the employee's conduct impairs the efficiency of the public service, but there must be a real and substantial relation between the employee's conduct and the efficient operation of the public service; otherwise, legal cause is not present." (Emphasis supplied)

In Stiles vs. O'Donnell, 229 Mass. 208, 118, N.E. 347, the Supreme Court of Massachusetts held that a charge of "failure to exercise proper diligence in discharging the functions of one's office" did not constitute legal cause sufficient to warrant a discharge.

See also People vs. Hoehler (Ill.) 90 N.E. (2d) 729.

In the rather recent case of Oliver vs. Spitz, 76 Nev. 5, 348 P.(2d) 158, the Supreme Court of Nevada held that a department rule providing that a classified employe could only be discharged for "just cause" was consistent with the statute which provided that an appointing authority could dismiss any permanent classified employe when the appointing authority felt that the good of the public service would be served thereby. The Nevada court further held that removal for "just cause" means "cause sufficient in law" which both the Personnel Board and the high court found lacking in the Oliver case, and the employe's reinstatement was ordered with full back pay.

Anyone familiar with the history and background of the civil service system in both federal and state service knows that it has certain salutary effects on the caliber of the average employe. It tends to reduce or eliminate nepotism and political patronage commonly referred to as the "spoils system." However, the system, as it has developed, does provide for certain tenure rights with respect to discharges thus tying the hands of an appointing authority who may be honestly attempting to upgrade the performance of his department.

Historically civil service was adopted in order to insure that the most qualified person would be selected for a particular job. Once selected the worker served at the will of his superior. There was no tenure. However, over the years the system has evolved so that now an appointing authority has some discretion in making his initial appointment. He picks one of three on a list or rejects all three and asks for another list. On the other hand, he cannot discharge the one selected, once permanent status has been achieved, except for a substantial reason, defined in the statute as "just cause."

In our judgment if the record supported the Board's finding that Brown had failed to meet a reasonable amount of production mandated by the Board, such failure would probably be sufficient cause for his dismissal.

With respect to his alleged failure to measure up to the so-called standards set by the Board of Trustees, this is another matter. We have combed the record carefully and cannot locate just what those standards really were. None of the trustees testified at the hearing, and Mr. Jamison was far from clear as to what he considered the applicable standards to be. A glance at the Board's memorandum decision, which accompanied its findings, indicates what the Personnel Board

subjectively thought the standards should be. At page 2 of the opinion, the Board stated:

> "For its investment directors, the state cannot be satisfied with just sound, capable personnel. When an investment director is selected by this unusual method, it is reasonable to expect that he will be a paragon. By experience, capability, contacts, hard work, 'feel' for the work, and at times, sheer luck and educated guessing, he should be able to meet whatever standards of performance that qualified and currently knowledgable superiors might set for him." (Emphasis supplied)

A paragon is defined as:

> "A model of superior excellence or perfection."

Webster's New 20th Century Dictionary, 2d Edition.

It would appear that the Personnel Board arrived at its standards for the position based on certain testimony of Mr. Jamison in the record. Certainly such standards are subjective and virtually impossible to comply with. Civil servants in the higher echelons would have no job protection whatever should the arbitrary standards prescribed by Mr. Jamison and adopted by the Personnel Board be applied to other classified positions. No reasonable person ever argued that a civil service system insures the very highest excellence in any particular position. Actually experience indicates it produces a high level of average accomplishment, adequate but not outstanding. We note with interest that neither Brown nor Mr. Lobdell, the only other investment director who testified, were college graduates. Thus, the lofty requirements spelled out for the job by the Personnel Board and Mr. Jamison do not square with the job specifications. These highly unusual standards, a paragon of excellence, seem to have been adopted to justify the discharge after the fact.

We now turn to the question of whether Browns claimed lack of production is supported by substantial evidence. We have examined

the record carefully in this connection, and in our considered judgment this charge is not substantiated.

First, there was no actual quota of production ever set for petitioner. In other words, Mr. Brown was never plainly told what he had to do in order to measure up to Jamison's wishes. It was all very vague. He was never directed to bring in X dollars of mortgages in X weeks or months. For example, at page 24 of the record, Trustee Slechta asked the following penetrating question bearing on production:

> "MR. SLECHTA: Let me ask a question of Mr. Jamison. Granting that your testimony is correct in all its aspects and granting your position is correct also, what can you tell us as to the availability of this type of investment, or could somebody else have done a better job?"

Mr. Jamison then replied:

> "Well, the only thing I can judge this by is the activity that I know other comparable financial institutions have posted, plus the activity that we have experienced in just the three years -- three months in which Mr. Brown has been out of the office. That is a period of about 30 days.
>
> "Now, we have a $4,200,000 Firestone application which looks like it will go; we have a $4 million application from St. Regis Paper Company and a million two from Revon. Now, that is roughly $10 million in three weeks."

It actually turns out that the Firestone, St. Regis, and Revlon mortgages, totaling $10 million dollars, were spurious. They never materialized, and we have no idea what the department's mortgage production was <u>after</u> Brown's departure.

We do know from the record that Brown's performance measured up to and exceeded that of his predecessor. It approximated $17½ million dollars per year during his five-year tenure. It is also clear that at the time he was discharged Mr. Brown had some $36 million dollars in advance commitments on the books. The proceeds

from these mortgages would not be paid out until after 1967 because of the absolute restriction under which the department was operating. As stated by Mr. Jamison at page 86 of the record, petitioner was working from about May 28th until the end of 1966 with absolute restriction. He could secure advance commitments, but none of the mortgage proceeds could be paid out until well after January of 1967. This was explained by Mr. Jamison at page 88 of the record as follows:

> "MR. JAMISON: Exactly right, and this must not be lost sight of. He was locked in with acquisitions after May 28, 1966. He could get nothing that paid out before 1967. That was our investment strategy, but I am not judging on the basis of investments acquired during that period. I am judging on the basis of commitments issued.
>
> "So I don't want to understate the problems that Fred faced at all. He faced very demanding problems.
>
> "Q In other words, you wouldn't want to see him make a commitment up until the middle of 1967 now. You wouldn't allow that, would you? If Goodyear came in and said, 'We want money in March of 1967,' he couldn't make that, could he?
>
> "A He could conceivably now because interest rates have dropped and our bond portfolio is limited and if he brought in something attractive enough, we would sell off the bonds and take the real estate. We weren't in that position. We had high interest rates and a whopping big market loss in our bond portfolio. So I had nothing to sell. I had to go on the basis of cash flow only. You see, this changes almost hourly and you just -- the strategy may apply for three months and be radically changed the next three months."

It is interesting to note that at the time Mr. Brown assumed his position, his division was investing about 13 percent of the entire fund assets. Mr. Brown retained this 13 percent ratio during his entire tenure even though the fund's assets grew appreciably. This was without adding help.

During his testimony, Mr. Jamison stated that he expected

Brown to live up to the standards required in the private sector. For example, at page 23 of the record, he testified:

> "Mr. Brown can't perform up to the standards that I would expect in the private sector, but if I am told here that the standards of performance in the State service are different from those in the private sector, I can very nicely live with the situation. There is no hostility between me and the appellant, and I would just ask for more personnel, and we will just move out just as we would have in the absence of any determination on it."

Actually Mr. Jamison never stated what type of performance in terms of production the private sector would demand. Two disinterested expert witnesses with much experience in the real estate mortgage field, Mr. James Paffhausen and Mr. David Tolzmann, stated that petitioner had a good professional reputation in the field and that his production compared quite favorably to that expected in the private sector. Also Mr. Charles Lobdell, director of stock investments for the State fund, stated that in his opinion Mr. Brown was a qualified, competent professional.

Based on careful study of the record, we do not find any substantial evidence to support the finding that Mr. Brown was not meeting the production requirements of his position. By discharging Brown on this record, Jamison and the State Board of Personnel have, by administrative action, declassified the job. We agree that positions such as the three directors of the State Investment Board, paying salaries equal to that of the Governor, are extremely sensitive jobs and probably should not be under civil service. It is fairly arguable that the executive director should have a free hand to hire the best talent available to manage and safeguard these state trust funds. Further, he should be able to remove such appointees at will if they fail to measure up to the subjective standards of

exceptional excellence required. If the foregoing is desirable, the positions must be declassified, and there are legal ways to accomplish this.

Under section 16.24(2) a position may be eliminated through a reorganization of the office. A person discharged as a result of such reorganization is then placed on the appropriate reinstatement list. Here the discharge occurred before the reorganization which, apparently, has now occurred. Mr. Jamison testified at the hearing that he had not filled Brown's position, and that it was his intent not to fill it. Thus, the department appears to be functioning as well with two directors as it did previously with three. This is true despite Jamison's complaint that if he had to continue with Brown as a director, he would have to hire additional personnel to help Brown. It just doesn't add up. Some of Jamison's testimony is self-contradictory on its face. Certainly a position may be eliminated or declassified by proper administrative action. That was not done here.

We conclude that the Board's finding as to Brown's failure to meet allegedly prescribed standards did not constitute "just cause" for discharge. We further hold that the record lacks substantial evidence to support the charge that Brown failed to meet the production schedule required of him. Consequently, the findings and order of the Board must be reversed.

At the time of oral argument counsel for the respondent conceded that this was a very difficult case. He urged that should the court determine that the Board's findings were either insufficient in law or not supported by the evidence we should, nonetheless, remand the case for additional findings which would justify the discharge.

This procedure, of course, was followed in Bell vs. Personnel Board, supra. In light of counsel's request, we will turn our attention to the record to determine whether or not it contains sufficient evidence to warrant petitioner's discharge for just cause, assuming proper legal findings.

OTHER GROUNDS FOR DISCHARGE ALLEGED BY THE EXECUTIVE DIRECTOR

In Jamison's discharge letter of November 28, 1966, he referred to his July 19th letter which amplified his reasons for being dissatisfied with Brown's services. In the earlier letter Jamison asserts that petitioner was not familiar with the accounting techniques employed by his division and that Assistant Attorney General Wedlake was doing Brown's follow-up work after commitments were secured. The record made at the hearings did not contain any evidence to back up either of these charges.

In addition to the charge that Brown's production of real estate and mortgage loans was insufficient, Jamison also charged that Brown's production, such as it was, lacked quality and adequate yield. The only criticism concerning quality dealt with three mortgages which went sour.

The first was the Shrewsbury Mortgage, an FHA project that went into default. This was a loan recommended by Mr. Jacobson, Jamison's predecessor, and was not in any way petitioner's responsibility. Thus, we have a situation of a completely unsubstantiated charge.

A second low-quality mortgage was Laguna O'Farrell, a California project that was actually sold in anticipation of default. A profit of over $11,000.00 was made on the sale. Jamison had no

specific criticism of Brown on this project. Brown testified that he recommended Laguna O'Farrell to Mr. Jacobson subject to inspection of the site and approval of the plans. Jacobson approved the mortgage commitment but did not follow Brown's suggestion as to pre-inspection of the site and plans.

The third so-called bad loan was one to Midwest Baptist, another FHA insured mortgage which went into default. This mortgage was recommended by Brown to Jamison, and apparently the default occurred because of certain architectural and engineering problems which were very difficult to foresee, especially without a pre-commitment inspection.

To sum up, what we really have is one bad recommendation by Brown in a period of five years. Certainly this falls far short of constituting "good cause" for discharge within the meaning of the law. Certainly it is not such a dereliction of duty as meets the definition of good cause as spelled out by Kaplan in his treatise on the Law of Civil Service.

Another unsubstantiated charge which Jamison made against Brown was that he was creating hypothetical files to create the illusion of activity. Specifically Jamison referred to the Baxter Laboratory and Continental Can files. When the two files concerned were produced, it became evident that they were in no sense of the word hypothetical but were bona fide tentative commitments. In fact, Mr. Jamison himself had participated in both cases, and it was his demand that Continental Can go directly on the note which caused that loan to fall through. In other words, Jamison's charge that Brown was setting up hypothetical files to create an illusion of activity was completely groundless.

Another criticism of Brown made by Jamison was that he was concentrating too many loans on the eastern seaboard, contrary to genera instructions and Board policy that loans should be disseminated as widely as possible. Apparently this eastern concentration was due tc three reasons:

> (1) Mr. Brown was from the East and naturally his best contacts lay there;
>
> (2) In the Investment Board's annual report of June 30, 1964, Jamison indicated that the policy of increasing mortgage investments in metropolitan areas was strategically sound, particularly in the City of New York;
>
> (3) The Investment Board raised its minimum loan requirement from $250,000.00 to $500,000.00 with the administrative direction that loans under $1,000,000.00 were not favored.

Obviously it takes a fairly large metropolitan market to produce real estate loans in excess of $1,000,000.00.

It should be noted that the Wisconsin State Investment Fund which has assets over a billion dollars is considered to be the best publicly administered trust fund in the country. The court may take judicial notice of the funds performance record over the past ten years; overall it has been excellent. The fund has had exceptionally good years and it has had a few bad years. 1966 was one of the bad years, but this was not due to anything that Brown had done but rathe because of an overall decline in the stock market from December 31, 1965 to December 31, 1966.

The Attorney General apparently realizes that the charges o

assertions. It may well be that petitioner was no genius and perhaps he didn't have the "feel" for the job that Mr. Jamison felt it required but that falls far short of constituting a dereliction of duty, misfeasance, disloyalty, or the type of serious inefficiency which constitutes legal cause for discharge.

At various times in the hearing it was alleged that petitioner was missing too many good investments which were ripe for the plucking. When specifically asked whether he could cite an example of mortgages that Brown failed to bring in, the executive director replied, "When a dog doesn't flush out a pheasant, how can I give an illustration of the ones he doesn't flush out? I can't give an illustration. I haven't seen them." (Tr. 1, p. 70)

Jamison did testify that he had the feeling that there were many good mortgages which Brown was failing to bring in. Undoubtedly this was true, but the record also indicates that Mr. Jamison had no idea of what or how many mortgages Brown actually brought before the Board. Jamison undoubtedly has done an excellent job in his overall administration of the fund, but the record here indicates that he was not really familiar with the mortgage market. His subjective notion of what constituted adequate performance in the private sector did not square with the private sector witnesses who testified. None of the trustees testified at either hearing, and no unbiased witnesses backed up Jamison's assertions and conclusions that Brown was incompetent and inefficient.

The civil service system in Wisconsin has evolved to the point where those with permanent status have certain rights of tenure protected by law. A civil servant with permanent status cannot be summarily discharged except for "just cause" as that term has been

defined by the courts. The Attorney General apparently takes the position that a window washer in state service or some lowly clerk can be discharged only for a serious dereliction or malfeasance while someone at the top of the civil service structure can be fired whenever the appointing authority feels that someone else could do a better job for the state. This may be good administration, but it does not square with the law. In civil service the man at the top enjoys just as much tenure as the man at the bottom. In fact, a review of the cases would indicate he probably enjoys more because of the extreme paucity of situations where high-level civil servants have been summarily discharged.

The record indicates that Mr. Ingraham, one of the Board's trustees, at some point tried to get petitioner to take another job with a lower classification. Certainly Mr. Ingraham was moving in the right direction. We have previously indicated that under the law Jamison had the right to reorganize his department so as to eliminate Brown's job. Actually what Jamison did was to eliminate the job by discharging Brown. This he was not entitled to do unless he could prove legal just cause. Our review of the record leads us to the conclusion that the evidence is insufficient to support a discharge for "just cause" within the purview of section 16.24(1)(a), Wis. Stats. We have no alternative but to reverse the findings of facts, conclusions of law, and order of the State Personnel Board. Counsel for the petitioner may prepare a formal order effectuating the mandate of this decision and remanding the matter to the State Personnel Board with directions that the Board enter an order reinstating the petitioner to his former position with full pay.

Dated October 17, 1967.

By the Court:

Richard W. Bardwell
Circuit Judge

STATE OF WISCONSIN | CIRCUIT COURT | DANE COUNTY

FREDERICK J. BROWN,

Petitioner,

vs.

STATE BOARD OF PERSONNEL,

Respondent.

DECISION ON REVIEW

Case No. 122-389

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The petitioner, Frederick J. Brown, was appointed to the position of director of real estate and mortgage investments of the Investment Board on September 28, 1961. He successfully passed his probationary period and attained permanent status on April 1, 1962. This was accomplished during the tenure of Mr. Jamison's predecessor.

The position here at issue is one of three directorships of the State Investment Board. The other two deal with stock investments, bond purchases, and corporate loans. These three positions are in salary range 22, the very highest in the State classified service, and each carries a salary up to $25,000 per year. Indicative of the high status of these three directorships is that in the range immediately below (range 21), there are likewise only three positions, while in salary range 20 there are 36 positions.

DUPLI
ORIGIN

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

FREDERICK J. BROWN, Petitioner,	
-vs-	ORDER
STATE BOARD OF PERSONNEL, Respondent.	Case No. 122-~~378~~ 389

Oct 24 12 30 PM '67
DANE COUNTY WISC.

A review under Wisconsin Statutes, Chapter 227 of decision, findings of fact, conclusions of law, and order of the State Board of Personnel, dated April 21, 1967, sustaining petitioner's discharge by his appointing authority, Mr. C. Hayden Jamison, Executive Director of the State of Wisconsin Investment Board, having been heard by this Court and the Court having rendered its decision that the petitioner's discharge was without just cause within the purview of Section 16.24(1)(a), Wisconsin Statutes, and an order having been issued by this Court reinstating the petitioner, Frederick J. Brown, to his former position with full back pay from the date of discharge, a copy of said order being attached hereto;

NOW ON MOTION of Petersen, Sutherland, Axley & Brynelson, attorneys for the petitioner, Frederick J. Brown;

IT IS ORDERED that the Clerk of this Court transmit to the State Personnel Board, State Office Building, Madison, Wisconsin, the record herein transmitted to this Court pursuant to Section 227.18, Stats., and to include a copy of this Order.

Dated this 23rd day of October, 1967.

BY THE COURT:

Richard W. Bardwell
Judge.

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

DUPLI ORIGIN

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Petitioner,

-vs-

STATE BOARD OF PERSONNEL,

Respondent.

ORDER

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Dated this 23rd day of October, 1967.

BY THE COURT:

Richard W. Bardwell

Judge.

STATE OF WISCONSIN　　CIRCUIT COURT　　DANE COUNTY

FREDERICK J. BROWN,	:	
Petitioner,	:	ORDER & JUDGMENT
-vs-	:	
STATE BOARD OF PERSONNEL,	:	
Respondent.	:	Case # 122-~~378~~ 389

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NOW ON MOTION of Petersen, Sutherland, Axley & Brynelson, attorneys for the petitioner, Frederick J. Brown;

IT IS ORDERED AND ADJUDGED R.W.B. that this matter be remanded to the State Board of Personnel and that said State Board of Personnel immediately render an order reinstating the petitioner, Frederick J. Brown, to his former position with full back pay from the date of discharge.

Dated this 23rd day of October, 1967.

BY THE COURT:

Richard W. Bardwell
Judge

Approved as to form - 10-23-1967
Robert Weyhrauch
Asst Atty Genl
Atty for Respondent.