

STATE OF WISCONSIN : IN CIRCUIT COURT : DANE COUNTY

ELBRIDGE ANDERSON, JOHN FORREST,
and ROBERT HOAGE,

Petitioners,

vs.

STATE OF WISCONSIN
(Personnel Board),

Respondent.

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~~JUDGMENT~~ PERSONNEL BOARD
Case No. 151049

Hon. P. Charles Jones, Acting Circuit Judge, presiding.

The above entitled review proceeding having been heard by the Court on the 20th day of October, 1976, at the City-County Building in the City of Madison; and the petitioners having appeared by the law firm of Lawton & Cates by Attorney Richard V. Graylow; and the respondent Board having appeared by Assistant Attorney General Robert J. Vergeront; and the Court having had the benefit of the arguments and briefs of counsel, and having filed its Memorandum Decision wherein judgment is directed to be entered as herein provided;

IT IS ORDERED AND ADJUDGED that the Decision of the respondent Board dated February 23, 1976, which affirmed the action of the appointed authority, dated September 18, 1973, in the denial of reimbursement of living expenses and salary to petitioners in

connection with their participation in a law enforcement training program be, and hereby is, affirmed.

Dated this _____ day of _____, 197__.

BY THE COURT:

Acting Circuit Judge

STATE OF WISCONSIN : IN CIRCUIT COURT : DANE COUNTY

#151-049

ELBRIDGE ANDERSON, JOHN FORREST,
and ROBERT HOAGE,

Petitioners,

-vs-

MEMORANDUM

STATE OF WISCONSIN
(Personnel Board),

DECISION

Respondent.

Hon. P. Charles Jones, Acting Circuit Judge, presiding.

Pursuant to Chapter 227, Stats., Elbridge Anderson commenced this action to review the February 23, 1976 Opinion and Order of the State of Wisconsin Personnel Board that dismissed his grievance by which he sought compensation for time spent in a law enforcement training course.

On this appeal it is undisputed that Anderson commenced employment with the University of Wisconsin-Stout during July, 1970, as a permanent, full-time Security Officer.

Beginning in March, 1973, Anderson attended and completed a 320-hour law enforcement training course during the day-time hours while he continued to work his normal 11:00 p.m. to 7:00 a.m. shift. While the UW-Stout did pay his tuition for the course, he now seeks compensation for the time that he spent in the classroom.

It is further undisputed that the employer erroneously assumed that Security Officers were not law enforcement officers within the meaning of Sec. 165.85(5)(b) Stats., which

mandates minimal training requirements for the petitioner to remain employed as a Security Officer.

The issue is whether the UW-Stout is obligated to compensate Anderson for his attendance time at a law enforcement training seminar that was a requisite for continued employment when he attended those classes during off-duty hours.

The petitioner argues that Sec. 165.85(5)(b) Stats., 1971, mandates payment of a salary to a state employee who attends a law enforcement training seminar.

Like the Personnel Board, this Court can find no explicit requirement in Sec. 165.85(5)(b) that mandates these payments. The statute provides:

"(b) The board shall authorize, on a uniform percentage basis, the reimbursement to each participating political subdivision of an amount up to 100% of the salary, and of the allowable tuition, living and travel expenses incurred by the officers in attendance at schools approved by the board, . . ."

Sec. 165.85(2) titled "Definitions" provides:

"(d) Political subdivision means counties, cities, villages and towns."

Thus the disbursements mandated in sec. 165.85(5)(b) are required only for "political subdivisions" as defined.

The UW-Stout is not a "political subdivision" within the statutory definition. Therefore, the UW-Stout is not a mandatory recipient of funds from the law enforcement standards board created in Chapter 165, Stats.

The petitioner argues that the Personnel Board ignored Secs. 16.01(2) and 16.14, Stats. when it rendered its February 23, 1976, Opinion and Order. While those sections outline state policy, they have no application to a resolution of the issue before the Court.

The petitioners' second argument is that the Court should invoke the doctrine of equitable estoppel or estoppel in pais to prevent an unjust result.

As argued by the state, however, equitable estoppel (synonymous with estoppel in pais) requires a showing of reliance by the petitioners.

The record amply shows that the petitioner was told that attendance at the law enforcement training seminar would be done on his own time. The UW-Stout did agree to pay the petitioners' tuition and it did encourage its Security Officers to attend the seminar. Therefore, the doctrine of equitable estoppel will not be invoked to prevent an alleged inequity.

Finally, the petitioner argues that the constitutional guarantee of equal protection necessitate compensation for Anderson who points to the fact that Security Officers from other campuses received their regular pay while attending training sessions in Madison, Wisconsin.

The petitioner, however, failed to prove that seminars were available in the same locality as the employees who were compensated. Furthermore, the petitioner has not shown that the other Security Officers were not directed to participate in the training by their immediate superiors. Finally, there have been no comparisons of staff sizes or promotional opportunities.

Because comparative facts are not in the record and because the petitioner has not challenged the Findings of Fact contained in the Personnel Board's Opinion, the decision of the Board is affirmed.

Counsel for the Board may prepare the appropriate Judgment.

Dated: December 17, 1976.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "P. Charles Jones", is written over a horizontal line.

P. CHARLES JONES, ACTING CIRCUIT JUDGE,
DANE COUNTY CIRCUIT COURT, BRANCH NO. 3.