

STATE OF WISCONSIN
BEFORE THE STATE BOARD OF PERSONNEL

Nancy Turcotte,)
Appellant,)
vs.)
C. K. Wettengel, Director) MEMORANDUM DECISION
State Bureau of Personnel,)
Respondent)
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Appellant at all times in question was a Laboratory Technician 3 employed in the Audiology Department at Central Wisconsin Colony. This is one of the research units at the colony.

Appellant is the chief non-professional in the unit's laboratory. The laboratory in its research does surgery on animals to such degree as is permitted by its resources and does testing on children. The testing on children, because of the fact the children are retarded, is by equipment more complex than an audiometer, consisting of electroencephalograph, computers, amplifiers and other sophisticated components.

Appellant impressed this Board tremendously. She is very personable and it is apparent that she not only is extremely intelligent, but that her intelligence is versatile. She clearly understands not only the mechanics of the laboratory, but also the purpose of the equipment and the applications that are made of its product. The Board has the feeling that Appellant is a more capable researcher than many of the professionals and scientists who have worked with the unit. One has the impression that she could handle about anything assigned to her in any field after minimal exposure to its intricacies. She in truth is an excellent employe.

Appellant requested the State Bureau of Personnel to reclassify her position to Laboratory Technician 4. The request was denied. It is from that denial that she has taken this appeal under s. 16.05, Wis.Stats.

In considering these appeals, it is not our province to substitute our judgment for that of the Respondent. If we could, we might well be persuaded to reclassify the Appellant as she has requested. However, the law clearly states that we can upset the action of the Respondent only if he has acted illegally, arbitrarily and capriciously. Obviously, he has not acted illegally.

The Respondent testified as to why he denied the request. He said that a Laboratory Technician 4 position was either for a chief non-professional in a large laboratory or for a non-professional as a highly skilled specialist. Respondent surely had criteria that he applied.

A large laboratory may be one that hires many people, it may be one that serves many people (such as a teaching laboratory) or it may be one that is engaged in a critical program of great significance, or it may be one with many programs. The audiology unit, is not such by any of the tests. None of this is to say that its work is unimportant.

Appellant is not a highly skilled specialist; she on the contrary is a highly skilled generalist.

These are not our arguments, but those of the Respondent. The argument is not specious nor is it whimsical; hence, even if it should not convince the Appellant, we do not believe that she can read bad faith into it.

In our state's civil service, we deal with nearly 30,000 jobs which must be kept in proper relationship to each other. To accomplish this very fine and sometimes arbitrary lines have to be drawn, as in this matter.

The surest way to get an entire system out of balance is to give individual considerations on the basis of excellent, outstanding performance or on the basis of performance beyond the call of duty.

Despite the creation of the Laboratory Technician series for progression from one level to another, the thing that is brutal to the Appellant is that as long as she remains subprofessional in the audiology laboratory at Central Colony in the laboratory's present and foreseeable context, she can never hope for a higher classification regardless of how hard she works or how much she accomplishes.

Counsel for the Respondent shall draft Findings of Fact and Conclusions of Law consonant with this Memorandum.

Dated: April ____, 1971.

STATE PERSONNEL BOARD

BY _____

Member Brecher did not participate.