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CLAYTON LANDAAL,

Grievant,

vs.

ORDER

WILBUR J. SCHMIDT, SECRETARY  
DEPARTMENT OF HEALTH AND  
SOCIAL SERVICES,

Respondent.

#536  
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The Board, having entered its Findings of Fact and Conclusions of Law in this matter, hereby makes and files the following Order:

1. That the grievant is entitled only to receive the sum of \$657 per month while he was performing his probationary duties in the classification of Industries Technician 1 in salary range 1-09.

2. Effective on the voluntary return of the grievant to his former position as Officer 2, the proper salary which he was to receive while performing in this classification, was the sum of \$627 per month, which was the highest salary attained by him in permanent status within this classification when performing these duties as such Officer 2.

3. The adjustment and reduction of the grievant's salary by his appointing authority from the sum of \$657 per month to \$627 per month effective on the grievant's return to the Officer 2 classification is proper and hereby ratified and affirmed.

4. This grievance appeal from the action of the respondent, in making this appropriate salary reduction, is dismissed on its merits.

Dated at Madison, Wisconsin this 12 day of January, 1973.

STATE PERSONNEL BOARD, By

William Ahrens  
William Ahrens, Chairman

CLAYTON LANDAAL,

Grievant,

vs.

WILBUR J. SCHMIDT, SECRETARY  
DEPARTMENT OF HEALTH AND  
SOCIAL SERVICES,

Respondent.

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

This matter was submitted to the Wisconsin Personnel Board as an appeal from the final determination by the grievant's appointing officer and the final disposition under the statewide grievance procedure. The matter was presented to the Board by grievant. The Board, having considered the statements and the briefs, on behalf of the parties, makes the following

FINDINGS OF FACT

1. Clayton Landaal, hereinafter referred to as the grievant, commenced his employment on August 1, 1960, as an Officer 1 Trainee. On February 2, 1961, he acquired permanent status as a classified employe as an Officer 1. On December 12, 1965, the grievant was reclassified to the Officer 2 classification and thereafter transferred from the Central State Hospital at Waupun to the Wisconsin State Prison as an Officer 2.

2. The classification of Officer 2 was assigned to salary range 1-08. That prior to February 8, 1970, the grievant was certified on the basis of a promotional examination as eligible for the position as Industries Technician 1 in salary range 1-09. On February 8, 1970, claimant was selected for the position as Industries Technician 1, assigned to the laundry area, and upon acceptance of this position, was placed on probation for a period of six months. Upon commencing his employment in the laundry during the probationary period, the grievant was entitled to a one step increase in salary in the amount of \$30 and his salary was increased during this probationary period for the monthly sum of \$627 to \$657.

3. After the grievant had accepted this promotional position and during the probationary period, he elected to return to his former work station and former position, and he requested that he be demoted to the Industries Technician 1 classification, which he was serving in the probationary status, to

his former classification of Officer 2, in which he had attained permanent status in class. In his letter requesting this demotion, he asked that he be permitted to retain a probationary step increase of \$30, which he had previously been awarded at the time of the acceptance of his probationary status as a result of this promotion.

4. On May 31, 1970, the employing unit of Wisconsin State Prison permitted the grievant to return to his former classification and his former position, but failed to adjust the salary by the deletion of the step increase.

5. On September 3, 1971, during the process of updating personnel payroll records, the State Bureau of Personnel discovered that the employing agency neglected to make the downward salary adjustment of \$30, which the grievant had received as a result of taking the promotional position, and advised the Department of Health and Social Services that this action was improper and requested immediate salary adjustments made.

6. Upon such notification, the salary was adjusted as required and a grievance was filed by Clayton Landaal alleging that he was entitled to retain the probationary step, upon his return to his former position, to which he had permanent status in class.

7. Section 16.22 Wis. Stats. requires a six month probationary period on both original and promotional appointments to permanent positions within the classified service.

8. Wis. Adm. Code Sec. Pers. 14.04 provides that upon promotion to a higher salary range, an employe is entitled to a full step upon entering the promotional position and a further additional full step upon the attainment of permanent status in class in the higher salaried position.

9. Pers. 14.03 provides that any employing agency may return a promoted employe to his former position salary during the time he is serving a probationary period. This action requires, upon a reduction in position prior to the completion of probation and the acquisition of permanent status, that when an employe returns to a position in a lower classification, he must be returned to his former salary which he was receiving in that class while on permanent status.

10. Wis. Adm. Code 17.01 defines a demotion as a movement of an employe with permanent status from a position in one class to a position in another class that has a lower salary range.

11. Wis. Adm. Code 14.01 defines a promotion as a movement of an employe with permanent status and class from a position in one class to a position in a

different class having a greater salary maximum. A step increase shall be allowed upon the entrance into the position at a higher range and a further step increase at the completion of six months of the probationary period in such promotional position. Such probationary increases are granted on the basis of the performance of position duties at a higher level (Pers. 5.03 (1)).

12. An employe on probation, being restored voluntarily or involuntarily to a lower salary range in which he had permanent status, is not entitled to receive and retain the probationary increase and his salary must be adjusted to that which he was receiving while on permanent status in the lower position.

13. The grievant was entitled to be restored to his former permanent position in accordance with his request, however, his appointing officer was not permitted by law or rule to permit him to retain his step increase and upon his return to his former position. His proper salary was that of \$627, which he was receiving as a permanent employe in the lower classification.

The Board, having made the foregoing Findings of Fact, herein enters the following

CONCLUSIONS OF LAW

1. That the grievant is entitled only to receive the sum of \$657 per month while he was performing his probationary duties in the classification of Industries Technician 1 in salary range 1-09.

2. Effective on the voluntary return of the grievant to his former position as Officer 2, the proper salary which he was to receive while performing in this classification, was the sum of \$627 per month, which was the highest salary attained by him in permanent status within this classification when performing these duties as such Officer 2.

3. The adjustment and reduction of the grievant's salary by his appointing authority from the sum of \$657 per month to \$627 per month effective on the grievant's return to the Officer 2 classification is proper and hereby ratified