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WILLIAM HORSMAN, **

Appellant, **

vs. **

ROBERT W. ANDREWS, DIRECTOR **
COLUMBIA COUNTY DEPARTMENT **
OF SOCIAL SERVICES, **

#565 Respondent. **

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OFFICIAL

ORDER

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 respondent forthwith reinstate the appellant to his position as Social Worker 1-Columbia County under the County Merit System.
2. That the respondent accord the appellant an initial starting date in a permanent position on February 5, 1972, and that effective August 6, 1972, he be accorded permanent status and tenure under the County Merit System.
3. That the respondent forthwith make appropriate adjustments in the appellant's starting date for continuous service in accordance with the findings and conclusions on file herein.
4. That the respondent make forthwith such adjustments in the appellant's salary to reflect the acquisition of permanent status on August 6, 1972, and that he award such proper backpay as he may be found to be entitled to in accordance with the findings and conclusions on file herein as permitted under the appropriate salary schedule.

Dated at Madison, Wisconsin this 24 day of May, 1973.

STATE PERSONNEL BOARD, By

William Ahrens
William Ahrens, Chairman

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WILLIAM HORSMAN,

**

Appellant,

**

vs.

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ROBERT W. ANDREWS, DIRECTOR
COLUMBIA COUNTY DEPARTMENT
OF SOCIAL SERVICES,

**

**

Respondent.

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OFFICIAL

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

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Hearing was had April 30, 1973, in the Wilson Street State Office Building, Madison, Wisconsin. Board members present were William Ahrens, Percy L. Julian, Jr., and Susan Steininger. After hearing all the testimony the Board makes the following:

FINDINGS OF FACT

1. The appellant, William Horsman, made application certification of eligibility under the County Merit System as a Social Worker 2-County.
2. That the appellant, William Horsman, was advised by the State Department of Health and Social Services, Division of Family Services, June 16, 1971, that he was eligible for certification as a Social Worker 2-County and was certified as approved eligible for appointment to Dane County.
3. That a vacancy occurred in Columbia County Department of Health and Social Services for a juvenile court worker and request was made to the State Department of Health and Social Services for certification of eligibles for this vacancy. In response to this request the appellant, William Horsman, was eligible for appointment and consideration, possessed a rank of three with a final grade of 85 on the eligible roster established October 19, 1971.
4. That a subsequent vacancy occurred in the classification of Social Worker 1-County in the Columbia County Department of Social Services. The respondent, Robert Andrews, Director of the Columbia County Department of Health and Social Services, interviewed the appellant for this vacancy and offered employment to him in this classification. At the time of this vacancy

the eligible list of Social Worker 1-Columbia County consisted of Everett J. Gooch, Fall River, Wisconsin; and Palmer A. Rinzel, Poynette, Wisconsin.

5. Concurrent with the hiring of the appellant, a request was made by respondent, Robert W. Andrews, for a certification of those eligible for appointment to this vacant position. In response to this request the names of Everett Gooch and Palmer Rinzel were certified by the State Division of Family Services as being eligible for appointment.

6. Respondent, Robert W. Andrews, upon receipt of this list of eligible employes as of December 8, 1971, requested information from the State Department as to why the appellant was not certified eligible for this position vacancy.

7. In response to this request, Sadie Schmitt, Personnel Manager, Bureau of Manpower, Division of Family Services, advised the respondent, Robert W. Andrews, by letter dated December 13, 1971, that the appellant's eligibility had expired, and that, therefore, he was not eligible for appointment and that in order to be considered it would be necessary for him to regain eligibility status. Thereafter, despite considerable correspondence between the State Department of Health and Social Services, Division of Family Services, as well as the district supervisor, no further efforts were made by the respondent to resolve the problem of the appellant's eligibility for appointment.

8. Effective January 1, 1972, the State Department of Personnel inaugurated new procedures for the certification of eligible persons under the Career Candidate Program for County Merit System employes. This procedure provided for the announcement of vacancies within the County System and directed that all inquiries regarding these vacant positions be directed to the County Director who is charged with the responsibility of evaluating the resumes submitted to him in response to the request for application for employment and to select the best qualified and to thereafter forward to the State Division of Family Services the resume of the employe selected for approval for hire.

9. Appellant's Exhibit #2 indicates that in the Career Candidate vacancy bulletin of January 24, 1972, the appropriate vacancy for Columbia County was advertised with a requested closing date for applications for February 4, 1972.

10. The application submitted by the appellant to the State Bureau of Personnel (Appellant's Exhibit #1) and received by them February 1, 1972, was submitted in response to the request of the respondent to attain eligibility as Social Worker 1-Columbia County and constitutes an application for the vacant position in compliance with the then existing Wisconsin Career Candidate instructions of submitting a resume of eligibility to the affected County Director. The respondent had previously interviewed the appellant for this vacant position and was well aware of his eligibility therefor and at the time of offering him employment assumed his current eligibility for such position. The respondent indicated a desire at all times in January and February of 1972 to retain the appellant in a permanent position.

11. That after the closing date of February 4, 1972, the respondent was aware of the appellant's interests in the vacant position and his application and request to be considered for this appointment. That effective February 5, 1972, the respondent, by his continuing the appellant in this position, permitted the appellant to commence a valid probationary period.

12. That Appellant's Exhibit #17, a letter to the respondent from Sadie Schmitt, indicates that the appellant's probationary period could not be considered effective until February 5, 1972, which was the date following the closing of filing of resumes for the vacant position. The evidence indicates that after the closing date for resumes had expired that the appellant was the only applicant who submitted an application and resume for this vacant position. The respondent's continued employment of the appellant was an employment of a temporary nature pending his acquiring eligibility for permanent appointment, and upon the closing date for applications for this vacant position had expired, the appellant had established his eligibility for consideration for permanent appointment.

13. That the appellant, in response to this advertised vacancy, by submitting his application to the State Department of Administration, State Bureau of Personnel, which was received February 1, 1972, established his eligibility for consideration for employment to this vacant position.

14. That the respondent received several communications from the State Department of Health and Social Services calling to his attention that based on the material submitted to them, the appellant was improperly hired as he was not selected from a certified list.

15. That Appellant's Exhibit #14 indicates that effective August 15, 1972, the appellant, William Horsman, again attained the eligible status for Social Worker 2-County and showed residence in Columbia County entitling him to a eligible rating for both Social Worker 1 and Social Worker 2-Columbia County.

16. That effective August 15, 1972, by the establishment of his eligibility, the appellant, William L. Horsman, became again eligible for appointment to a Social Worker 1 or Social Worker 2 under the County Merit System for Columbia County.

The Board having entered the foregoing Findings of Fact enters the following:

CONCLUSIONS OF LAW

1. That the respondent's continued employment of the appellant at all times after December, 1971, constitutes a conditional, temporary employment subject to appellant's establishment of his permanent eligibility thereto.

2. That the appellant, William Horsman, by his filing of his application for employment under the current Wisconsin Career Candidate rules on February 1, 1972, constitutes a request for consideration for employment for the position of Social Worker 1-Columbia County and established his eligibility therefor.

3. That at all times after the appellant commenced his employment as a Social Worker 1-Columbia County, he indicated a willingness to become a tenured employe under the County Merit System and he became eligible for such permanent appointment under the existing regulations on February 5, 1972.

4. There is no evidence to show that any other applicant filed a resume for consideration for employment for this position on or before February 4, 1972. The appellant's application was the only valid application on that date.

5. Under the County Merit System rules, the continued employment of the appellant after his establishment of his eligibility for such employment on February 5, 1972, such employment was permanent in nature and that the appellant became a probationary employe effective that date.

6. Effective August 6, 1972, the appellant's continued employment permitted him to attain permanent status, and that on that date he was entitled to permanent tenure under the County Merit System, as well as any salary adjustment applicable under the then existing regulations.

7. The action of the respondent in terminating the appellant's employment for his failure to acquire permanent status be and the same is hereby set aside and declared null and void.

Dated at Madison, Wisconsin this 24th day of May, 1973.

Members Brecher and Serpe did not participate in the hearing nor in the decision

STATE PERSONNEL BOARD, By



William Ahrens, Chairman