

OFFICIAL

STATE OF WISCONSIN

PERSONNEL BOARD

* * * * *
 *
 SARA SHERKOW, *
 *
 Appellant, *
 *
 v. *
 *
 C, K. WETTENGEL, Director, *
 State Bureau of Personnel, and *
 PRESTON SMELTZER, *
 *
 Respondents. *
 *
 Case No. 73-156 *
 *
 * * * * *

OPINION
 AND
 ORDER

Before AHRENS, Chairman, SERPE, JULIAN and STEININGER.

This is an appeal relating to a civil service examination conducted by the State Bureau of Personnel for the position of Educational Consultant 1 - Special Needs in the Department of Public Instruction. The Appellant and Respondent Smeltzer were the only applicants for the position.

The Appellant contends 1) the examination procedure was improper, 2) that the filling of the position was delayed after Appellant alone appeared to be the sole qualified applicant to permit Respondent Smeltzer to qualify as an applicant, and that 3) Respondent Smeltzer does not possess the minimum qualifications necessary for the position.

The facts are as follows. In the latter part of July, 1973 an announcement was posted for a competitive promotional examination for the position in question. It listed certain qualifications for the position. It set July 27, 1973 as the deadline for applications, but provided that applications would be accepted after that date if arrangements could be made for any scheduled examination. Both Appellant and Respondent Smeltzer filed applications with Respondent Wettengel. On August 1, 1973 Wettengel notified Smeltzer he did not appear to meet the qualifications for the job, but

he was invited to present any further evidence he might have in that regard. The Bureau of Personnel as a matter of its standard procedures extends this opportunity to all applicants so that they will not be erroneously excluded from the examination process. In early August, Dirk V. Graye, the Personnel Officer of the Department of Public Instruction, advised the Appellant of the time and place she was to appear for an employment interview. Shortly thereafter, he advised her that her interview was cancelled and would be rescheduled for a later date. Subsequently, Smeltzer submitted to the Bureau of Personnel additional information regarding his qualifications and, thereupon, his application was accepted. Since he and the Appellant were the only two applicants, no examination of any kind was conducted. On or about September 20, 1973, the Bureau certified both their names as qualified and eligible to the Department for consideration for appointment to the position. Both were interviewed for the job and Smeltzer was selected.

In early August 1973, Appellant was mistakenly scheduled for a job interview. The Bureau of Personnel is charged with the responsibility of screening applications for employment, examining the applicants, and then certifying to the employing agency the names of the three applicants who rank highest on the examination. Only after the certification has been made may the agency schedule interviews for the applicants. In the instant case, the Bureau had not completed its screening process until the names were certified on September 20, 1973. The interview set up for the Appellant in early August was scheduled by mistake and was promptly cancelled as soon as the error was detected. We find that the cancellation of the Appellant's scheduled interview was not made for the purpose of unfairly or unlawfully conferring an advantage to Smeltzer in the examination and selection process, but rather was cancelled because it had been mistakenly set up before a list of eligibles had been certified to the Department. We conclude that such cancellation and later scheduling was lawful and did not invalidate the examination and selection process.

Respondent Smeltzer possessed the necessary qualifications for the position. Smeltzer's original application indicated that he had worked in a particular civil service classification for a given period of time. Subsequently, he submitted additional information showing that while in such classification, he had actually been performing work involving a higher level of duties and responsibilities than the classification he held would indicate. This information was evaluated by the Bureau of Personnel and determined to be correct. Indeed, Smeltzer had been misclassified. Further, the Bureau determined that in view of Smeltzer's actual prior job experience he was qualified to compete for the position here in question. We find Respondent Smeltzer to possess the necessary qualifications for the position of Educational Consultant 1 - Special Needs - in the Department of Public Instruction.

ORDER

IT IS THEREFORE ORDERED that the action of the Respondent Wettengel in this matter is affirmed and the appeal is dismissed.

Dated Oct 10, 1974

STATE PERSONNEL BOARD

BY

William Ahrens

William Ahrens, Chairman