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 ERWIN G. BULLETTE,  
 Appellant,  
 v.  
 ZEL RICE, Secretary,  
 Department of Transportation,  
 Respondent.  
 Case No. 75-133-I  
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**OFFICIAL**

DECISION  
ON  
REQUEST  
FOR INVESTIGATION

Before: JULIAN, Chairperson, STEININGER and DEWITT, Board Members.

NATURE OF THE CASE

This is a request for an investigation pursuant to S. 16.05(4), Wis. stats., into Appellant's reassignment from one troop to another within the state patrol. The Respondent has filed a written response to the request to which Appellant has filed a written reply.

BACKGROUND

These findings are based on material set forth in the aforementioned documents, and are limited to the preliminary decision of this request. The Appellant is a permanent employe in the classified service, employed as a sergeant in the state patrol. From May 6, 1968, through October 25, 1975, he was assigned to Washington County, U.S. Highway 41. On October 16, 1975, he was advised by his superiors that he was to be reassigned to Ozaukee County, U.S. Interstate 43. This resulted in another sergeant transferring from Ozaukee to Washington Counties. No change of residence was required for either employe. Both assignments are within State Patrol District 2, northern sector.

The Appellant takes the position that the reassignment or transfer was improper, not based on just cause, and the result of personal feelings on the part of one of his supervisors, Captain Jorgenson. He further alleges that the action has caused him hardship and is a blot on his record.

The agency has responded that the transfer or reassignment was undertaken solely to increase the efficiency of district operations by providing managerial interchange. Nevertheless, it is apparent from the face of the documents submitted by the agency, including a letter

dated October 20, 1975, from Captain Jorgenson to the Appellant, that Captain Jorgenson, at least, believed there were a number of other factors underlying the personnel action in addition to the one set forth by the agency. These reasons primarily related to the Appellant's alleged quasi-insubordinate responses to management's attempts to deal with a work slowdown by rank and file troopers. It is unclear whether any higher authority beyond Captain Jorgenson was involved in the decision to reassign Appellant.

DECISION

The power to investigate conferred by S. 16.05(4), Wis. stats., is wholly discretionary: "The board may make investigations ... ." See Brodbeck v. Warren, Pers. Bd. 74-114, 11/25/75. In Schwartz v. Schmidt, Pers. Bd. 74-18, 1/17/75, we held that the purpose of S. 16.05(4) "seems to be directed to broad policy matters related to the 'enforcement and effect' of the civil service law."

On the record before us at this point, the dispute appears to be solely between a captain and a sergeant and does not involve broad policy matters. However, there is no indication whether or not this dispute reflects any agency policy or practice. It does appear that middle management viewed the transfer as disciplinary.

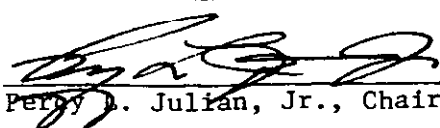
We also note that the appeal letter was initially delivered to the Bureau of Personnel, where it was stamped in on November 10, 1975, from where it was forwarded to the Board office where it was received November 12, 1975. November 10th was fifteen days after the effective date of the reassignment. Finally, we note that the subject matter of this appeal appears to fall within the jurisdiction of the Director of the Bureau of Personnel pursuant to S. 16.03(4), Wis. stats. For all these reasons, while we decline to conduct an investigation at this time, we will remand this matter to the Director for processing pursuant to S. 16.03(4), Wis. stats. Either party of course will be free to exercise his statutory rights to appeal an action or decision of the Director, or to request a reopening of this investigation.

ORDER

IT IS HEREBY ORDERED that this file be forwarded to the Director of the Bureau of Personnel for processing pursuant to S. 16.03(4), Wis. stats.

Dated Jan. 27, 1976.

STATE PERSONNEL BOARD

  
Perry D. Julian, Jr., Chairperson