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JOANNE D. PULLIAM and
MAREN ROSE,

Appellant,

v.

VERNE H. KNOLL, Deputy Director,
State Bureau of Personnel,

Respondent.

Case No. 75-51

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OFFICIAL

OPINION
AND
ORDER

Before: DEWITT, Chairperson, WILSON, WARREN, MORGAN and HESSERT, Board Members

Nature of the Case

This is an appeal pursuant to Section 16.05(1)(f), stats., of an action of the director cancelling a register that had been established following an examination conducted by the Division of Vocational Rehabilitation, Department of Health and Social Services (DHSS), on a delegated basis pursuant to Section 16.03(2), stats. Following the filing of this appeal there have been two interim decisions by the board.

Findings of Fact

The appellants were placed on a register for the position of Disability Claims Adjudicator 4 following a promotional competitive selection process or examination conducted by the Division of Vocational Rehabilitation, Department of Health and Social Services, on a delegated basis from the director pursuant to Section 16.03(2), stats. The selection process consisted of the completion of a promotional potential rating form (90%) and the completion of a seniority factor (10%). This promotional potential rating form (AD-PERS-56) (Respondent's Exhibit 2)

contains five traits - general bearing, general ability, alertness and judgment, human relationships, and overall fitness for the position. For each trait, the form provided certain specific criteria to be considered by the rater. For example, under the trait general bearing were the following criteria: "Consider appearance, voice and speech, emotional stability, self-confidence, poise, and stature as each relates to this higher job." The five traits were weighted equally in scoring the forms pursuant to a standard scoring key that was set out in the form and was not developed for this particular position. The forms were completed by three supervisors of the individuals being rated. These supervisors utilized their knowledge of the on the job performance of the individuals being rated in making their determinations.

Prior to the examination, no written or structured job analysis¹ was conducted. However, because of their working knowledge of the position, the supervisors who filled out the rating forms may be said to have engaged in an independent, unstructured job analysis, and had this knowledge of the position in mind when they rated the applicants. Otherwise, the form was not specifically related to this particular position, but rather was a form that had been in existence and use for a number of years. The agency personnel officer who administered the exam testified, and it is found, that some of the traits and specific criteria listed in the form were not job related.

The bureau voided the register on March 11, 1975. This was after a number of appointments had already been made from the register, but these appointments were not disturbed. The bureau prior to the use of the forms had not promulgated any instructions to the agencies to discontinue their use. Rather, it based its action

¹A job analysis is a systematic review of a position to determine what the accomplishments of the position are, what the tasks are to perform in the position, what knowledges, skills, and abilities are required to perform the tasks, and which are more or less important in terms of ability to succeed on the job.

on a concern about the validity of the examination device and in the wake of a personnel board decision requiring that the bureau had the burden of demonstrating the validity of civil service examinations pursuant to EEOC guidelines. See Kuter & North v. Wettengel, Wis. Pers. Bd. No. 73-152, 159 (July 24, 1977). The use of the promotional potential rating form for this Disability Claims Adjudicator 4 position had been challenged by an unsuccessful applicant in another personnel board appeal which was pending at the time of the voiding of the register, and the bureau felt it could not successfully defend the selection process in a hearing before the board which was scheduled for the same day the register was voided.

Conclusions of Law

Under the civil service statutes the director clearly has the power or authority to void a register established following an examination conducted by a department pursuant to delegation. See Section 16.03(2), stats.: "Whenever the director determines that any department is not performing such delegated function within prescribed standards, he shall forthwith withdraw such delegation and assume responsibility for such function." See also Section 16.03(5), stats.: "The director may issue enforceable orders on all matters relating to the administration, enforcement and effect of this subchapter and the rules prescribed thereunder."

The next question is whether the action taken by the director was appropriate on its merits. At the time this action was taken the respondent was faced with the rule set forth by the personnel board in the Kuter and North case that the bureau on an appeal was required to demonstrate the validity of an examination or selection process. At that time the bureau was faced with a challenge to the

particular selection process in question and had determined that it could not defend it. The record clearly supports a conclusion that the respondent was correct in his determination that the validity of the promotional potential rating form used in this selection process could not be demonstrated at the time the register was voided. Given this conclusion and the requirements of the Kuter and North decision, it is further concluded that the respondent was justified in cancelling the register.

The appellant offered evidence that the people actually appointed to the position had good on the job performance records. This evidence was received subject to the respondent's objection that this information postdated the respondent's action voiding the register and the filing of the appeal. It is now concluded that this evidence is immaterial and should not be considered in the determination of this appeal. Even if the proffered data were statistically significant, which we do not determine, in the context of criterion validation,² it requires a period of time after the examination to accumulate the necessary data. The bureau had to make a decision based on the information then available. That information clearly was to the effect that the examination was not susceptible to a showing of validation, and the bureau was justified in proceeding as it did.

Order

The decision of the director is sustained and this appeal is dismissed.

Dated July 22, 1977

STATE PERSONNEL BOARD


Laurene DeWitt, Chairperson

²This is a means of establishing the degree of correlation between successful examination performance and successful job performance by comparing relative performance on the examination with relative performance on the job by, as applied here, subsequent on the job evaluation of successful candidates.