
LORAIN MARVIN,

Appellant,

v.

DOUGLAS LAFOLLETTE,
Secretary of State,

Respondent.

Case No. 75-78

OFFICIAL

OPINION AND ORDER

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

NATURE OF THE CASE

Following a prehearing conference, the parties agreed to the withdrawal of part of this appeal. The remainder of the appeal concerns the reassignment by the Respondent of certain of Appellant's duties.

FINDINGS OF FACT

These findings are based on uncontested facts apparent on the face of the documents filed by the parties. Appellant, a permanent employe in the classified service has alleged, among other things, that the Respondent Secretary of State had removed her from her duties as personnel officer for his office.

CONCLUSIONS OF LAW

The Respondent has objected to the subject matter jurisdiction of the Personnel Board and taken the position that this matter should be heard in the first instance at least by the Director of the Bureau of Personnel.

In order to be directly appealable, a personnel action must be a demotion, layoff, suspension, or discharge. Section 16.05 (1) (e), Wis. Stats. The action taken here is not alleged to fall within the technical definition of a demotion, see S. Pers. 17.01, Wisconsin Administrative Code. This appeal does not involve an action or decision of the Director so

jurisdiction under S. 16.05(1)(f), Wis. Stats., is not present. The matter involved is not presented as the final step of a grievance, so jurisdiction under S. 16.05(7), Wis. Stats., is not present. Other sources of appellate jurisdiction are not apparent.

It is a basic proposition of law that:

. . . administrative agencies have only such powers as are expressly granted to them or necessarily implied and any power sought to be exercised must be found within the four corners of the statute under which the agency proceeds.

American Brass Co. v. State Board of Health, 245 Wis. 440, 448 (1944).

See also Mid-Plains Telephone v. Public Service Commission, 56 Wis. 2d 780, 786 (1972): "Every administrative agency must conform precisely to the statutes from which it derives power."

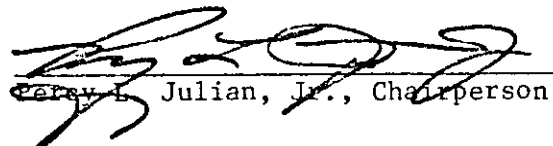
Since it is apparent there is no subject matter jurisdiction, the motion to dismiss must be granted. However, since an appealable action or decision of the Director would provide a potential basis for appeal pursuant to S. 16.05(1)(f), Wis. Stats., we will not close this file but rather will remand the matter to the Director with a request that he investigate the matter and enter an order that would be appealable pursuant to S. 16.05(1)(f), Wis. Stats.

ORDER

This appeal is hereby dismissed. A copy of this file shall be remanded to the Director in accordance with this opinion.

Dated December 22, 1975.

STATE PERSONNEL BOARD


Carey L. Julian, Jr., Chairperson