

# OFFICIAL

STATE OF WISCONSIN

PERSONNEL COMMISSION

\* \* \* \* \*  
\*  
JOHN BARTOL, \*  
\*  
Appellant, \*  
\*  
v. \*  
\*  
Secretary, DEPARTMENT \*  
OF TRANSPORTATION, \*  
\*  
Respondent. \*  
\*  
Case No. 79-309-PC \*  
\*  
\* \* \* \* \*

DECISION  
AND  
ORDER

## NATURE OF THE CASE

This case is an appeal at the fourth step of a non-contractual grievance concerning the rate of merit increase awarded to the appellant in fiscal year 1979. Respondent objects to Commission jurisdiction of the subject matter on the grounds that the grievance relates to wages and is not appealable under §230.45(1)(c), Wis. Stats. (1977) and that the appeal is also precluded by operation of Laws of 1979, Ch. 221, sec. 749g, which created §230.45(2), Wis. Stats. (1979). Prior objections of respondent in this case were denied by the Commission in its Interim Decision and Order dated April 19, 1979. This Decision and Order goes only to the objections stated above. The issues were submitted on briefs of the parties.

## OPINION

The appellant in this case contests the amount of his discretionary performance award (merit increase) for the fiscal year 1979. The only other related case decided under ch. 230, Wis. Stats. (1977) is Romanski

v. DOR, 78-155-PC, 4/19/79, in which appellant challenged the evaluation procedure used to determine his eligibility for a discretionary performance award. The respondent in Romanski raised no objection to jurisdiction. The Commission held it had jurisdiction pursuant to §230.45(1)(c), Wis. Stats. (1977), to decide whether respondent's evaluation system met the requirements of §230.37(1), Wis. Stats. (1977). The present appeal does not challenge the evaluation of appellant's work.

A discretionary performance award increases an employe's base rate of pay, pursuant to §230.12(5)(a) and (d), Wis. Stats. (1977), and is one of several permissible "methods of within [pay] range progression." The statute is explicit in referring to compensation. This statute is dispositive of the jurisdictional issue and the Commission does not address respondent's argument that newly created §230.12(5)(e), (Laws of 1979, ch. 221 §749g) operates to deprive the Commission of jurisdiction in this case. The term "conditions of employment" as used in 5.245.(1)(c), Wis. Stats. (1977) does not include wages, which are recognized as a separate and distinguished subject matter.

The amount of increase awarded is a decision of the appointing authority under §230.12(5)(b), Wis. Stats. (1977), and is not an appealable action under §230.44(1)(a)-(d), Wis. Stats. (1977).

#### CONCLUSION OF LAW

1. This Commission lacks subject-matter jurisdiction of an appeal of a non-contractual grievance relating to wages, §230.45(1)(c), Wis. Stats. (1977).

2. This appeal is an appeal of a non-contractual grievance relating

to wages.

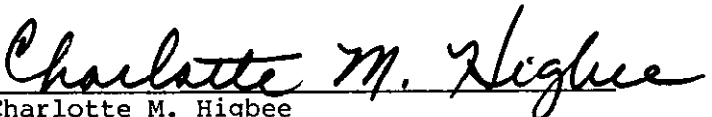
3. The Commission lacks jurisdiction of this appeal.

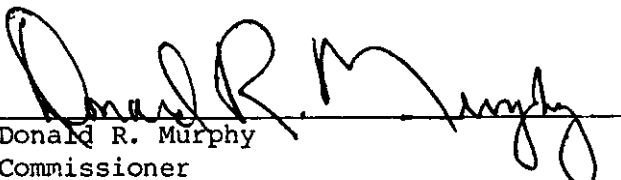
ORDER

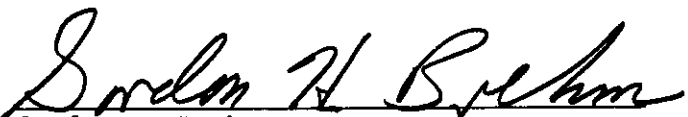
It is ordered that the respondent's motion to dismiss is granted  
and this appeal is hereby dismissed.

Dated: June 27, 1980.

STATE PERSONNEL COMMISSION

  
Charlotte M. Higbee  
Commissioner

  
Donald R. Murphy  
Commissioner

  
Gordon H. Brehm  
Commissioner

AR:jmg