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 *
 WILLIAM F. SCHMALTZ, *
 *
 Appellant, *
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 v. *
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 President, UNIVERSITY OF *
 WISCONSIN - MADISON, *
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 Respondent. *
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 Case No. 85-0004-PC *
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DECISION
 AND
 ORDER

This action is an appeal of an appointment. The appellant alleges that respondent committed an illegal act or abused its discretion when it failed to appoint him to the position of Purchasing Assistant. A hearing was held April 28, 1986, before Commissioner Donald R. Murphy. The following findings are based upon that hearing.

FINDINGS OF FACT

1. On February 17, 1984, a job was announced in the state employment bulletin for a Purchasing Assistant position. The announcement informed the reader that applicants were required to have knowledge of purchasing principles/practices, basic mathematical/accounting knowledge, oral/written communication skills, and inventory controls procedure.

2. The appellant took examinations for three types of Purchasing Assistant positions: Purchasing Assistant Supervisor, Purchasing Assistant - Chemical Lab, and Purchasing Assistant - General. His examination rankings, respectively were 2, 13 and 20.

3. In November, 1984, the Space Science and Engineering Center, UW-Madison had a vacant Purchasing Assistant - General position and it

received a state employment register, listing the names of 20 applicants, including the appellant, who were eligible for the position. Ten of those applicants qualified pursuant to the veterans preference point procedure, and the expanded certification list procedure. In addition, two lateral transfers submitted resumes.

4. On November 30, 1984, the Center's Personnel Coordinator, Terri Gregory, wrote a letter to the applicants inviting them to compete for the position and send their resumes. The appellant was one of fifteen (15) applicants who responded.

5. The center made its hiring decision on the basis of a selection process which included screening the resumes and interviewing the remaining applicants. Applicants were eliminated at each stage of the selection process.

6. The resumes were examined by the supervisor of the purchasing officer. He screened the resumes in two steps, first looking for a demonstration of written communication skills and then evidence of relevant work experience, especially state government purchasing.

7. Three applicants were eliminated at the first step of this screening process. After the second step, five applicants were invited for interviews.

8. The appellant was eliminated at the second step. Based upon the resumes and cover letters, he had two or three years less work experience in purchasing than those applicants chosen for interviews.

9. Five candidates were selected for interview, but one withdrew and another failed to appear at the scheduled time for interview. The successful applicant was chosen based on her resume and oral interview.

10. The appellant filed an appeal of respondent's hiring decision within thirty days after he received notice of his elimination as an applicant for the position.

11. Respondent's decision not to interview appellant after comparing his resume with the other applicants was reasonable.

CONCLUSION OF LAW

1. The Commission has jurisdiction over this matter pursuant to §230.44(1)(d), Wis. Stats.

2. The appellant has the burden of showing that respondent's decision not to interview him for the Purchasing Assistant position was illegal or an abuse of discretion.

3. The appellant has failed to meet his burden of proof.

4. The respondent's decision to not interview the appellant for the Purchasing Assistant position was neither illegal nor an abuse of discretion.

OPINION

The issue in this matter is whether the respondent committed an illegal act or an abuse of discretion in not appointing the appellant to the position of Purchasing Assistant. The specific law involved in this case is §230.44(1)(d) which provides:

A personnel action after certification which related to the hiring process in the classified service and which is alleged to be illegal or an abuse of discretion may be appealed to the Commission.

Both parties are in substantial agreement as to the facts. The appellant, William F. Schmaltz, had been certified by the state as being qualified for a Purchasing Assistant position in its classified civil service. He and fourteen other eligible applicants submitted their resumes in competition for a vacant Purchasing Assistant position at the UW-Madison,

Space Science and Engineering Center. The Center screened the applicants based upon the information obtained from the resumes and cover letters. Five job related factors were used to screen the materials submitted by the applicants. During this screening process, the appellant was eliminated from consideration; five people were chosen for interview. Only three applicants were interviewed, one withdrew and the other failed to appear for interview.

The appellant argues: The respondent was required to interview all applicants certified as eligible for the vacant position; it was improper for respondent to fail to advise applicants that their resumes were going to be used in the selection process; and more than three (3) people should have been interviewed by respondent for the vacant position.

Appellant's case consisted of his testimony supported with documentation, of the steps he took in seeking the position, the information he submitted to respondent when he applied for the position, his subsequent failure to be selected and respondent's explanations for not selecting him. The particular facts, expressed in appellant's presentation, are set forth in findings 1-8.

No legal authority was presented or cited by the appellant in support of his beliefs that respondent's acts during the hiring process were illegal. In fact, appellant's belief that respondent was required to interview all certified applicants had no basis in law other than his suspicion of impropriety. Nor did appellant produce evidence showing that respondent's acts during the hiring process were "clearly against reason and evidence" as the term, abuse of discretion, has been defined in Lundeen v. DOA, Case No. 79-208-PC (6/3/81). To the contrary, the clear evidence was that respondent's selection decision was based on job related factors,

which were uniformly and impartially applied. As a result, the Commission can only conclude there was no abuse of discretion regarding respondent's hiring process.

ORDER

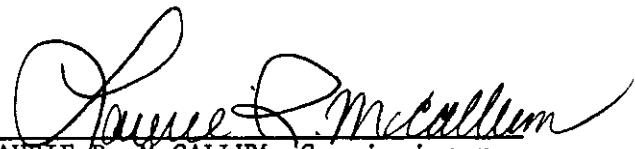
The decision by respondent not to hire appellant is affirmed and this appeal is dismissed.

Dated: October 29, 1986 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson

DRM:jmf
ID6/2


DONALD R. MURPHY, Commissioner


LAURIE R. McCALLUM, Commissioner

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