

STATE OF WISCONSIN

PERSONNEL COMMISSION

*
DAVID WING, *
*
Appellant, *
*
v. *
*
Administrator, DIVISION OF *
MERIT RECRUITMENT & SELECTION,*
Secretary, DEPARTMENT OF *
PUBLIC INSTRUCTION, *
*
Respondents. *
*
Case No. 85-0013-PC *
*

PROPOSED
DECISION
AND
ORDER

NATURE OF THE CASE

By interim order of the Commission dated December 19, 1985, the issues in this matter were established as follows:

1. Whether the action of DMRS in failing or refusing to submit appellant's name to respondent DPI as being eligible for the vacant position of Accountant 4 - Supervisor was correct.
2. Whether the action of respondent DPI in not interviewing the appellant for the position of Accountant 4 - Supervisor was illegal or an abuse of discretion.

Hearing in the matter was held on March 19, 1987. Appellant filed his brief on May 18, 1987. Respondent DPI filed its brief on June 18, 1987 while respondent DMRS filed a brief on June 19, 1987. Appellant filed a reply brief on July 14, 1987.

FINDINGS OF FACT

1. Respondent DMRS and the appellant reached a settlement of two (2) earlier filed appeals (Wing v. UW & DMRS, 79-148-PC and Wing v. DMRS, 83-0205-PC) on December 2, 1983. Pertinent terms are as follows:

1. Respondent Division of Merit Recruitment and Selection agrees to place David Wing's name on the transfer and

reinstatement list for a two and one half year period, beginning January 1, 1984 and ending June 30, 1986.

2. Respondent Division of Merit Recruitment and Selection agrees to make Dale Bruhn, or his designee in case of absence, available to provide David Wing with information concerning his rights as an employee and procedures for applying for positions in state service. The requests for information and the responses thereto shall be in writing. The period involved here is January 1, 1984 and ending June 30, 1986.

3. Respondent Division of Merit Recruitment and Selection agrees to provide David Wing with a two and a half year subscription to the Career Opportunities Bulletin beginning January 1, 1984 and ending June 30, 1986.

4. Respondents agree not to initiate contacts with prospective employers which will impede David Wing's search for a new position.

10. In consideration for the actions of the respondents described in paragraphs one through nine above, David Wing agrees to withdraw and cause to be dismissed the above-captioned cases and all other claims, actions or rights of action against respondents which arise out of the incidents which are the subject of the appeals and grievances listed in the caption, except a claim filed before the Claims Board.

11. David Wing agrees not to file any further appeals, complaints or grievances or to commence any type of court action against the respondents or their employees, which arise out of the incidents which are the subject of the appeals and complaints listed in the caption, except a claim before the Claims Board.

12. This settlement agreement is expressly made for the purpose of resolving disputed claims and in order to avoid the further expense and burden of litigation, and does not constitute an acknowledgement of any improper actions by respondents or an acknowledgement or denial of appellant David Wing's rights, nor does Mr. Wing by entering into this agreement acknowledge that his claims lack legitimacy or merit. The respondents expressly deny liability and seek only to resolve the claims which gave rise to this litigation in a mutually satisfactory manner.

13. The parties agreed that the Personnel Commission will retain jurisdiction over these matters for the limited purpose of dealing with any allegations of failure to comply with the provisions of this settlement agreement.

2. The competitive examination for the Accountant 4 - Supervisor, Department of Public Instruction (DPI), Division of Management and Budget

was announced in the July 17, 1984 Current Employment Opportunities Bulletin (COB) published by respondent DMRS. This particular announcement advised, among other things, that: "The written examination is scheduled for August 25. Apply with a State Applicant Registration Form by August 2 to Cheryl Anderson (608) 266-0710; Merit Recruitment and Selection; 149 E. Wilson St.; P. O. Box 7855; Madison, WI 53707." The July 17, 1984 COB contained the following pertinent instruction: "Current State employees wishing to transfer, or those with reinstatement eligibility should contact the agencies who might have vacancies for the announced positions."

3. Appellant did not read the aforesaid instruction in the COB relating to procedures to follow for state employees wishing to transfer or exercise reinstatement eligibility for vacant positions.

4. The appellant filed a timely application for the aforesaid Accountant 4 position and a notice regarding the scheduling of the written exam was sent to him. This notice was returned to Cheryl Anderson because the appellant had listed an insufficient address on the application. Anderson telephoned the appellant and obtained a clearer address from him. At this time, the appellant informed Anderson that he did not need an exam notice since he was applying as a transfer, was in litigation and to check with Sandy Cogas, Department of Employment Relations attorney, if she had any questions. Anderson sent the exam notice to the appellant anyway.

5. On August 13, 1984, Cheryl Anderson received a memo from appellant dated August 9, 1984, as follows:

As I stated on the telephone you may discuss my application for this position with DER's legal counsel Mr. Sanford Cogas but I would caution you that various actions are prohibited by a current agreement, eg item #4 which states:

Respondents agree not to initiate contacts with prospective employers which will impede David Wing's search for a new position.

For your information we, Mr. Cogas and myself have discussed (Tuesday) this position along with others as a possible new settlement agreement.

After receiving this letter, Anderson spoke with Cogas who informed her that he was handling the matter and that she did not have to do anything else.

6. The record does not support a finding that respondent received a memo from appellant to Cheryl Anderson dated August 9, 1984, stating his desire to be put on "DMRS list of Accountant 4, 5 & 6, Administrative Officer I, BMA-5, Auditor 5 & 6 all in PR 15 or 16 level of classifications." The record also does not support a finding that appellant asked respondent DMRS to forward his application for the position in question to respondent DPI.

7. Respondent DMRS was responsible for taking applications, recruiting, preparing and conducting the necessary examinations, scoring the examination, and establishing the register for the Accountant 4 - Supervisor position noted above.

8. On or about October 3, 1984, respondent DPI received the original certification list from respondent DMRS which contained no transfer eligible employees. The appellant's name was not on the list as he did not take the examination for the Accountant 4 - Supervisor position. After receiving the certification list, Jeff Geisler, respondent DPI personnel specialist, examined the transfer and reinstatement list dated September 15 1984. He found the name of Billy J. Pullum listed as an Accountant 4 transfer eligible employee. Geisler then added Pullum's name to the certification list to be considered as a transfer applicant.

9. At all times material herein, appellant was on the transfer and reinstatement list in conformance with the aforesaid settlement agreement (including the September 15, 1984 list) as a Budget and Management Analyst 6.

10. Around October 18, 1984, respondent DPI received a supplemental certification list from respondent DMRS dated October 16, 1984. This certification list did not include any name as an interested transfer eligible.

11. Subsequently, applicants for the position were interviewed by respondent DPI in late October 1984. On November 2, 1984, the successful applicant was notified of her selection for the Accountant 4 - Supervisor position. She declined the position, and additional interviews were held in November and December 1984. On December 21, 1984, another person (Robert Ploetz) was selected for the position.

12. In late December 1984, Roy Richgels, one of the hiring supervisors, contacted Robert Ploetz by telephone to offer him the job and to explain that, due to budget problems, the appointment would not be effective until June 1985. Ploetz verbally committed to accept the position under those conditions. The selection process then was considered by the hiring supervisors (Richgels and Joel Chapiewsky) to be closed.

13. On or about January 8, 1985, appellant first contacted respondent DPI to indicate he was interested in being considered for the Accountant 4 - Supervisor position as a transfer eligible. Respondent DPI received appellant's resume on January 10, 1985.

14. Respondent DPI's Director of Personnel, Dirk Graye, and the personnel specialist who was responsible for filling the position, Jeff Geisler, then discussed how to handle appellant's resume. The aforesaid

hiring supervisors were contacted and informed of appellant's application and were asked if they would be interested in interviewing him. Both supervisors indicated a selection had been made, the person chosen was satisfactory to them, and they did not wish to reopen the process to interview appellant. Geisler also felt that, once the recommendation to hire had been made, the hiring process was considered closed. Based on these reasons, respondent DPI decided not to interview Wing for the position.

15. On January 17, 1985, respondent DPI sent Robert Ploetz a letter confirming his appointment to the position of Accountant 4 - Supervisor effective June 24, 1985.

16. By letter dated February 13, 1985, respondent DPI advised appellant that the aforesaid position had been offered to and accepted by "the applicant who was determined to be the number one candidate before your interest in the position came to our attention." Said letter thanked appellant for his interest in the DPI position.

17. Section ER-Pers 12.02(3), Wis. Adm. Code, provides:

The administrator may submit the names of persons interested in transfer, reinstatement or voluntary demotion along with a certification or, at the request of the appointing authority, in lieu of a certification.

18. The Request for Transfer/Reinstatement form lists three ways by which an employe may obtain a transfer.

a. Discuss the matter with your supervisor and/or department manager. They may be able to help you find a new position in your present department, or to suggest other departments or offices where your skills may be needed.

b. Contact the personnel managers of agencies where you would like to work, so that they will know of your qualifications and availability. Ask them to consider you for any vacancies occurring in their agencies. If an agency has a position for you and you happen to contact them before they have reported the opening to the State Division of Merit Recruitment and Selection, they may offer you the job without any recruiting or competition for the position. An agency may also consider you along with applicants certified to them from a civil service register.

c. File a "Request for Transfer/Reinstatement" form with the State Division of Merit Recruitment and Selection. The Division will include your name on the monthly Transfer and Reinstatement List issued to agency personnel managers. They will contact you if they wish to consider you for employment. Your name will remain on the Transfer and Reinstatement List for Six months. If you wish to remain on the list after six months, you should file a new "Request for Transfer/Reinstatement" form.

CONCLUSIONS OF LAW

1. These matters are properly before the Commission pursuant to §230.44(1)(a) and §230.44(1)(d), Stats.

2. The appellant has the burden of proving that the action of respondent DMRS in failing or refusing to submit appellant's name to respondent DPI as being eligible for the vacant position of Accountant 4 - Supervisor was not correct.

3. The appellant has the burden of proving that the action of respondent DPI in not interviewing him for the position of Accountant 4 - Supervisor was illegal or an abuse of discretion.

4. The appellant has failed to sustain his burden of proof.

5. Respondent DMRS's action in failing or refusing to submit appellant's name to respondent DPI as being eligible for the aforesaid vacant position was correct.

6. Respondent DPI's decision not to interview appellant for the disputed position was neither illegal nor an abuse of discretion.

DECISION

DMRS

The first issue before the Commission is whether the action of respondent DMRS in failing or refusing to submit appellant's name to respondent DPI as being eligible for the vacant position of Accountant 4 - Supervisor was correct. Appellant makes numerous arguments in support of his position that respondent DMRS acted improperly in this regard. For the reasons listed below, the Commission rejects these arguments.

One of appellant's allegations is that respondent DMRS' failure or refusal to submit his name to respondent DPI as a transfer eligible for the Accountant 4 - Supervisor position violated the aforesaid settlement agreement.

Item #1 of the settlement agreement obligated respondent DMRS to place appellant's name on the transfer and reinstatement list for two and one-half year period, beginning January 1, 1984 and ending June 30, 1986. The record indicates that respondent did this and that for the most part appellant was listed on the transfer and reinstatement list as a Budget and Management Analyst 6. Appellant also argues that respondent DMRS failed to put him on said list as per his request as an Accountant 4, 5 & 6, Administrative Officer 1, BMA-5, and Auditor 5 & 6, all in the PR 15 or 16 level of classification.

However, the record does not support a finding that respondent DMRS ever received such a request.¹

Item #2 of the settlement agreement provides that respondent DMRS, through Dale Bruhn, or his designee, provide appellant with information concerning his rights as an employee and procedures for applying for positions in state service. Requests for such information and the responses were to be in writing. The record contains no evidence that appellant ever asked respondent DMRS how to be considered for the DPI job as a transfer eligible. Contrary to appellant's assertions, there is nothing in Item #1 or 2 or any other provision of the settlement agreement requiring respondent DMRS to refer his name to the appointing authority when he wanted a transfer. Also contrary to appellant's assertions, there is no persuasive evidence in the record that appellant ever asked respondent DMRS to forward his name to respondent DPI for possible consideration to fill the position in question. In fact, during correspondence on the subject, appellant reminded respondent DMRS it could not "initiate contacts with prospective employers which will impeded David Wing's search for a new position," pursuant to Item #4 of the settlement agreement. Respondent DMRS only fulfilled its obligations under this provision of the settlement agreement, by not having any contact with respondent DPI, particularly in the absence of a specific request by appellant to refer his name to respondent DPI regarding the disputed position. Finally, it should be noted that appellant admitted at hearing that he had not read the instructions in the

¹ The appellant testified that he prepared and sent a memo to this effect. The respondent provided testimony that the memo was not received. Obviously, if the memo was sent, it is possible it could have been misdirected or lost in the mails. In any event, the appellant has not satisfied his burden of proof on this factual situation.

aforementioned COB relating to procedures to follow for state employees wishing to transfer or exercise reinstatement eligibility for vacant positions, and that he was not familiar with the proper method to be considered on a transfer basis.

Based on the above, there is no persuasive evidence in the record that respondent DMRS violated the terms of the settlement agreement. However, appellant also testified that respondent DMRS violated the intent of said agreement (Item #1) by not giving his name to respondent DPI as a transfer eligible, as he understood that he would be on the transfer and reinstate list and thus be eligible for and be given equal consideration for vacancies in and out of his classification. Concerning his understandings about the transfer and reinstate list, appellant did not say why these understandings were not in the agreement. The appellant was placed on the transfer and reinstatement list for 2½ years as required by Item #1 of the settlement agreement. The agreement did not mandate that appellant be listed on several classifications, be eligible for appointment to several positions or that appellant's name be referred to Respondent DPI for consideration for the disputed position. Since the language of the settlement agreement is clear with respect to respondent DMRS' responsibility regarding placement on the transfer and reinstatement list, the Commission finds that it would be inappropriate to look beyond said language in order to attempt to ascertain the intent of the parties otherwise.

Appellant also alleges that respondent DMRS failed or refused to submit his name to respondent DPI in accordance with §ER Pers 12.02(3), Wis. Adm. Code. This rule provides:

The administrator may submit the names of persons interested in transfer, reinstatement or voluntary demotion along with a certification or, at the request of the appointing authority, in lieu of a certification.

Under appellant's view, since respondent did not forward his employment application to respondent DPI, it caused the appellant to lose the opportunity for equal consideration for the Accountant 4 - Supervisor position.

Appellant cites no legal authority for his proposition. In any event, under the aforesaid rule, respondent DMRS is not required to submit the names of transfer eligibles to an appointing authority. Nor is the appointing authority (i.e. respondent DPI) required to consider employees who desire a transfer. In the instant case, respondent DPI did request the transfer and reinstate list and found the name of one employee listed as an Accountant 4 transfer eligible. That employee's name was then added to the certification list to be considered as a transfer applicant. Since appellant was listed as a Budget and Management Analyst 6 on said list, his name was not received by respondent DPI for possible consideration regarding the vacant position.²

Based on the foregoing, the Commission finds that respondent DMRS did not violate §ER Pers. 12.02(3) by its actions/inaction herein.

Finally, appellant argues that in refusing and/or failing to forward his application for employment to respondent DPI, respondent DMRS denied him his rights to attain an equal opportunity for employment. Appellant cites the following statutory provisions in support of this contention.

² Appellant asserts that he forwarded a written request to respondent DMRS to place his name on the transfer and reinstate list in various classifications including the Accountant 4 level. Assuming arguendo that is possible, the record does not support a finding that respondent DMRS ever received such a request.

Section 230.01(2), Stats. provides:

It is the policy of the state and the responsibility of the Secretary and Administrator to maintain a system of personnel management which fills positions in the classified service through methods which apply the merit principle with adequate civil service safeguards.

It is the policy of the state to ensure its employees opportunities for satisfying careers and fair treatment based on the value of each employee's services. It is the policy of this state to provide for equal employment opportunity by ensuring that all personnel actions including hire, tenure or term and condition or privilege of employment be based on the ability to perform the duties and responsibilities assigned to the particular position without regard to age, race, creed or religion, color, handicap, sex, national origin or political affiliation. (emphasis added)

Section 230.05(2)(b) Stats. states:

The administrator (DMRS - added) may not delegate any of his or her final responsibility for the monitoring and oversight of the civil service system under this subchapter. (emphasis added)

Section 227.033 Stats. Discrimination by rule is prohibited.

Every person affected by a rule shall be entitled to the same benefits and subject to the same obligations as any other person under the same or similar circumstances. (emphasis added)

In his brief dated May 15, 1987, appellant summarizes his argument regarding denial of equal opportunity for employment as follows:

I, the appellant in this case, Number 85-0013-PC, contend that DMRS did fail and/or refuse to forward my application and thus denied my rights to attain an equal opportunity for employment. All applications for employment must be submitted to DMRS. Therefore, DMRS is the catalyst in providing equal opportunities to all who apply. The Administrator, through the Wisconsin Statutes, is required to maintain a personnel management system which fills vacant state civil service positions with adequate safeguards. The Administrator (DMRS) is responsible for providing equal employment opportunities for state employees to attain satisfying careers and fair treatment. The statute clearly states the Administrator may not delegate his or her final responsibility for monitoring and oversight of the civil service system.

Based upon these facts, Mr. Wing was denied an equal opportunity, despite the fact that the State of Wisconsin, as an employer, is supposed to be an equal opportunity employer. This negligent, or deliberate, action of not forwarding Mr. Wing's timely application to

DPI did, in fact, cause Mr. Wing to lose the opportunity for equal consideration.

Respondent DMRS has, in fact, forwarded other state employee's applications and transfer requests to appointing authorities, but failed or refused to forward Mr. Wing's application.

§227.033 prohibits discrimination. DMRS cannot discriminate. Mr. Wing is entitled to the same benefits and obligations as other state employees have been given. As clear proof of discrimination, I call your attention to Mr. Dale Bruhn's letter dated September 17, 1985 and Mr. Duane McCrary's letter dated November 21, 1985.

Section 230.01(2), Stats., enunciates the policy of the State of Wisconsin to provide equal employment opportunity in all personnel actions based on the ability to perform the duties and responsibilities assigned to the particular position -- not based on such factors as age, race, creed or religion, color, handicap, sex, national origin or political affiliation. Appellant has alleged that respondent DMRS' failure or refusal to send his application denied him equal employment opportunity. This is not enough. If the appellant could allege and prove such a failure or refusal was due to any of the proscribed reasons, then he would have a claim against respondent DMRS. A failure or refusal to forward his application, in the absence of a statutory obligation as well as the absence of any proof indicating that respondent DMRS' actions were motivated by any of the prohibited reasons delineated by §230.01(2), Stats., does not establish a violation of this statute.

The second portion of the appellant's "policy" argument relates to the State's policy to ensure its employees opportunities for "satisfying careers and fair treatment." Here, appellant argues that respondent DMRS denied him an opportunity for a "satisfying career and fair treatment" due to its failure or refusal to send his application to respondent DPI. Again, the sentence must be read in its entirety, along with the rest of the statute. This sentence in §230.01(2), Stats., obliges the State to ensure its employees "opportunities for satisfying careers and fair treatment based on

the value of each employee's services." The statute's prohibition is on denying state employees an opportunity for a satisfying career and fair treatment based on any of the earlier referenced reasons. In order to establish a violation of the statute, appellant must allege and prove a failure or refusal to send the application and then demonstrate that this was done due to the proscribed rationales listed in the statute. As noted above, appellant has failed to do this.

Finally, it should again be noted that appellant's actions and in-actions, more than anything else, resulted in respondent DPI's not knowing of his interest in the Accountant 4 - Supervisor position. As discussed above, there is no persuasive evidence in the record that respondent DMRS improperly failed or refused to send his application thus denying him equal employment opportunity.

Based on all of the above, the Commission finds that the answer to the first issue is YES, the action of respondent DMRS in failing or refusing to submit appellant's name to respondent DPI as being eligible for the vacant position of Accountant 4 - Supervisor was correct.

DPI

With respect to the merits of this dispute, the question is whether there has been any illegal action or abuse of discretion by respondent DPI in not interviewing the appellant for the position of Accountant 4 - Supervisor. Appellant argues that respondent DPI violated the equal employment opportunity required by the State of Wisconsin in failing to give him a proper interview. For the same reasons discussed above with respect to appellant's allegations regarding respondent DMRS's failure to give him equal employment opportunity, the Commission rejects this claim against respondent DPI. Appellant simply has proven no illegality and none

can be reasonably inferred from the record in this proceeding. An issue remains as to whether respondent DPI properly exercised its discretion.

The term "abuse of discretion" has been defined as "... a discretion exercised to an end or purpose not justified by, and clearly against, reason and evidence." Lundeen v. DOA, No. 79-208-PC (6/3/81). The question before the Commission is not whether it agrees or disagrees with the appointing authority's decision, in the sense of whether the Commission would have made the same decision if it substituted its judgment for that of the appointing authority. Rather, it is a question of whether, on the basis of the facts and evidence presented, the decision of the appointing authority may be said to have been "clearly against reason and evidence." Harbort v. DILHR, No. 81-74-PC (1982).

Respondent DPI, in effect, denied appellant's request to be interviewed for the aforesaid position because by the time appellant contacted respondent DPI regarding the vacancy, interviews were completed and the position had been offered to and accepted by a qualified candidate satisfactory to respondent DPI. The Commission finds, for the reasons listed below, that there was a reasonable basis for respondent to not interview the appellant for the Accountant 4 - Supervisor position.

First, appellant failed to apply to respondent DPI until January 1985, after the hire process had been completed. Respondent DPI did not know about appellant's interest in the position until that time. Even though appellant testified that he informed respondent DMRS of his interest in the disputed position, this is not the proper method for applying for a transfer. The July 17, 1984 COB stated that transfer eligibles should contact the agencies who might have vacancies for the announced positions. Appellant admitted at hearing that he did not read these instructions.

Appellant's failure to be considered for the position was because of his failure to properly apply for the position. Appellant was unable to point to any requirement in the Statutes or Administrative Rules that an agency must interview applicants who do not follow the proper application procedures.

In his brief, appellant alleges that like the situation in Wing v. DILHR & DP, 80-65-PC (4/5/83) respondent DPI's failure to consider him for the vacant position "was not based on the exercise of an informed discretion, but at best, on happenstance or inadvertance." (emphasis supplied) In Wing v. DILHR & DP, supra, the Commission found that, under certain circumstances, "the failure to exercise discretion, even if inadvertent, amounts to an abuse of discretion."

In Wing v. DILHR & DP, supra, Wing notified DILHR's assistant personnel manager that he was interested in being considered for a position at DILHR. A personnel assistant in DILHR's personnel office then sent a memo to the hiring supervisor informing him that he could consider Wing for the position in addition to the other names on the list of eligibles. The hiring supervisor never received said memo and therefore did not consider Wing for the position. Under these facts, the Commission concluded that DILHR's failure to consider Wing was an abuse of discretion.

The aforesaid Wing case can be distinguished from the instant dispute. Appellant did not properly apply to the hiring agency (respondent DPI) or make the hiring agency aware of his interest in the position until after a selection had been made. At hearing, appellant admitted that he failed to contact anyone at respondent DPI any earlier due to the press of other business. Appellant also attempted unsuccessfully to establish that he asked respondent DMRS to inform respondent DPI of his interest in the

position. Therefore, appellant's failure to be considered for the position is attributable not to any failure on respondent DPI's fault, but to appellant's own failure to timely contact respondent DPI about his interest in the position. Although the Commission has found that an agency must answer for its own errors, as DILHR was required to do in Case No. 86-0065-PC, it is not reasonable for the Commission to require respondent DPI to answer for appellant's errors and omissions herein.

Finally, it should be noted that respondent DPI's decision not to interview appellant was based on the exercise of an informed discretion. After respondent DPI learned of appellant's interest in the position in January 1985, DPI staff involved in the selection process seriously discussed whether to consider his application, even at that late date. Respondent DPI's head of personnel contacted the hiring supervisors to see if they were interested in interviewing appellant. Both supervisors indicated that since a selection had been made and the position had been verbally offered to and accepted by a qualified candidate, the process was over, and it was too late to consider appellant. For these reasons, respondent DPI decided not to interview appellant for the position.

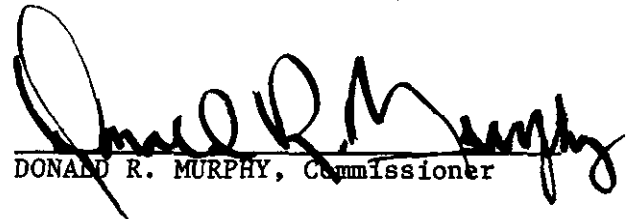
In view of the above, the Commission finds that respondent's decision in January of 1985 not to interview appellant was based on the exercise of an informed discretion that was reasonable and justified by the facts. The decision was not the result of any failures by respondent DPI to properly handle appellant's application, as was the case in the DILHR case. Respondent DPI's decision not to interview appellant was neither illegal nor an abuse of discretion.

ORDER

The action of respondent DMRS in failing or refusing to submit appellant's name to respondent DPI as being eligible for the vacant position of Accountant 4 - Supervisor as well as the action of respondent DPI in not interviewing appellant for the position is affirmed and this appeal is dismissed.

Dated: September 23, 1987 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


DONALD R. MURPHY, Commissioner

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JMF04/2

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