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BRUCE ROBLEE,  
                  Appellant,

v.

President, UNIVERSITY OF  
WISCONSIN SYSTEM (Madison),  
                  Respondent.

Case No. 86-0032-PC

\* \* \* \* \*

DECISION  
AND  
ORDER

The above captioned matter came before this Commission for hearing on the merits of appellant's appeal of an employment layoff. Testimony on appellant's appeal was heard by Commissioner Donald R. Murphy. Exhibits were received in evidence and each party submitted posthearing briefs. After careful consideration of the foregoing information, the Commission enters the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Appellant, Bruce Roblee, was first hired in the Division of Business, University of Wisconsin-Madison in March, 1980. Having acquired the position through a promotional examination, Roblee functioned in the division as a Purchasing Agent 4 Supervisor (PA 4 Sup.).

2. Respondent, University of Wisconsin System is the administrative body which governs public higher education in Wisconsin. The University of Wisconsin-Madison, where the appellant is employed, is the largest of 13 universities, along with 13 two-year centers and a statewide extension which comprise the system.

3. In a letter dated January 29, 1986, received at a meeting on that date, appellant was notified of his impending layoff. On February 4, 1986, appellant signed a memo to Mr. Tom Sailor, his supervisor, accepting a demotion to a Purchasing Agent 3 position, effective February 28, 1986, in lieu of layoff.

4. On March 4, 1986, appellant filed an appeal of the layoff decision against respondent alleging the layoff was not for just cause, but an attempt to impose disciplinary sanctions on appellant.

5. Appellant works in Purchasing, which is one of five departments in the Division of Business Services. Purchasing performs the purchasing function and stores operation for the University of Wisconsin - Madison. The stores operations serves all state agencies in Madison.

6. Beginning in 1979, over a period of five years, various faculty groups had express dissatisfaction with the Purchasing Department. The Chancellor and governing faculty body were requested to establish a faculty committee to run Purchasing.

7. In July, 1984, the university hired Donald Miner as director of Business Services. His immediate priority was to improve the services of the Purchasing Department. The new director met with faculty groups to attend their concerns. They submitted to the director a written set of findings of deficiencies in Purchasing.

8. In December, 1984, Miner hired Mr. Thomas Sailor as Acting Director of Purchasing. Mr. Sailor had served on a team which had audited the Purchasing Department in August, 1984, and was aware of its performance rating.

9. Mr. Sailor was given authority by Mr. Miner to assess the service level of the department and to resolve its deficiencies. He advised Miner that staff was top heavy in supervisors.

10. Between December and April, 1985, supervisory meetings were held and the topics of discussion included supervisory management of purchasing agents. A team concept, forming several teams of purchasing agents was put into place .

11. In Mid-April, Sailor talked with appellant about removing his supervisory duties. Sailor told appellant it would not affect his pay. Appellant said he would be relieved not to have supervisory responsibilities so long as it would not cause a reduction in pay or classification of his position.

12. By Mid-April, Sailor concluded that only one supervisor was needed for the team leaders and advised his supervisor, Donald Miner of his decision.

13. On April 22, 1985, appellant was informed in writing of the removal of his supervisory responsibilities and the placement of a single supervisor over the purchasing agents.

14. During this same period, supervisory positions in the bid-processing group and the expediting group were converted to non-supervisory positions.

15. Appellant never contacted or complained to any of his supervisors about the April 22, 1985, memorandum which removed his supervisory responsibilities.

16. During this same period, appellant was involved in an aerial mapping survey bid project and had several conversations with Sailor about it.

17. On April 17, 1985, appellant told Sailor of a bidding mistake he had made, which he corrected the same day.

18. On April 25, 1985, Sailor learned of a serious problem in aerial map survey bidding process, attributed to appellant, which Sailor had to step in and correct.

19. Sometime after April 22, 1985, Sailor learned that a Purchasing Agent (PA) 4 classification did not exist and to carry out his reorganization plan, one PA 4 Supervisor position would have to be reduced to a PA 3.

20. On three occasions: July 10, September 6 and September 23, 1985, Mr. Sailor conferred with appellant about the options for formalizing the prior -- April 22, 1985 -- removal of supervisory responsibilities from appellant's position. The first meeting was initiated by appellant because of a comment contained in his performance evaluation report.

21. December 6, 1985, Sailor submitted a proposed Purchasing Services reorganization plan to his personnel office director, which included abolishing appellant's PA 4 Sup. position and changing it to a PA 3.

22. On January 29, 1986, respondent's personnel office submitted to the Division of Merit Recruitment and Selection (DMRS) Department of Employment Relations (DER) a request for approval of its layoff plan, which included abolishing appellant's position.

23. Respondent's layoff plan complied with the applicable state Statutes and Codes for layoff and was approved by DMRS January 30, 1986.

#### CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(c), Wis. Stats.

2. The respondent has the burden of proving that the layoff has been conducted in accordance with the applicable personnel statutes and administrative code provisions and that the layoff was not the result of arbitrary and capricious action.

3. The respondent has met that burden of proof.

4. The layoff of the appellant from his Purchasing Agent 4 Supervisor position was for just cause.

#### OPINION

This Commission in Manthei v. DILHR, Case No. 81-394-PC (10/14/82) wrote: The standard to be followed by the Commission in reviewing a layoff was announced by the Wisconsin Supreme Court in Weaver v. Wisconsin Personnel Board, 71 Wis 2d 46, 237 NW 2d 183 (1976). Weaver held that an appointing authority acts with "just cause" in a layoff situation when it follows the applicable provisions of the statutes and the administrative code pertaining to personnel and when the layoff is not the result of arbitrary or capricious action.

The central question in Roblee's appeal is whether there was just cause for the University of Wisconsin - Madison to layoff him in accordance with the applicable law.

Respondent introduced an abundance of evidence showing how a concern arose by the University community, over a period of five years, about the efficiency of the purchasing department, which led to several studies, including a team audit by another state agency. Other evidence was introduced showing that reorganization of the purchasing department was an outgrowth of the dissatisfaction with the services of that department and that it was initiated, processed and completed in accordance with state law.

Roblee asserts the university's explanation for his layoff was a pretext and that its true motive was to discipline him for mistakes made in a bidding transaction. He presented evidence showing that prior to his layoff, resulting in an involuntary demotion, he was responsible for two mistakes in a bidding transaction, which caused his supervisor to become upset with him. Roblee argues that his dissatisfied supervisor subsequently manipulated the layoff process to discipline him by reducing his position from a Purchasing Agent 4 Supervisor to a Purchasing Agent 3.

Appellant's claim is not supported by the preponderance of credible evidence. The clear evidence shows that Sailor's decision to reorganize the purchasing department stemmed from the charge given him at the time of his initial appointment as temporary head of the purchasing department, continued through staff meetings with supervisors and subordinates, including appellant; and culminated in restructuring the department, which finally required the reduction of appellant's position from a PA 4 Sup. to a PA 3.

Appellant testified that he was in perfect agreement with not having supervisory responsibilities as long as he did not lose his classification and pay status. It is clear from the evidence that at the time appellant's supervisory duties were removed, both appellant and his supervisor believed it would not affect either appellant's pay or his classification. Not until two or three months later were both appellant and his supervisor aware that removal of appellant's supervisory duties would result in a lower classification. That information caused the understanding between Roblee and Sailor to crumble and the commencement of a series of meetings in an attempt to renegotiate an agreement regarding appellant's position as it would be affected by the reorganization.

While appellant's mistakes in a bidding transaction may have affirmed his supervisor's concepts about realignment of supervisory positions in the purchasing department, the evidence does not support appellant's claim that Sailor reorganized the department to demote him. Unambiguous evidence presented by respondent shows just cause and a rational basis for its decision to institute a layoff in the course of reorganizing its purchasing department.

Regarding the admission of appellant's exhibits 61 through 64, which were extracts of depositions of witnesses who testified at the hearing, these exhibits were excluded from the hearing record as being repetitious, accumulative and untimely.

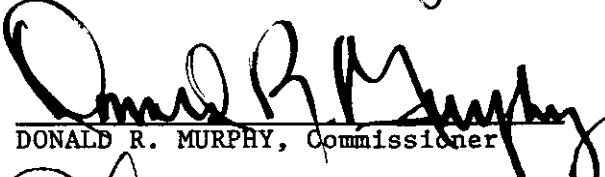
ORDER


Respondent's decision to lay off appellant from his position as Purchasing Agent 4 Supervisor is affirmed and this appeal is dismissed.

Dated: April 15, 1987 STATE PERSONNEL COMMISSION

DRM:jmf  
JGF001/2

  
DENNIS P. MCGILLIGAN, Chairperson

  
DONALD R. MURPHY, Commissioner

  
LAURIE R. McCALLUM, Commissioner

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