

* * * * *
 THOMAS D. OLSON,
 Appellant,
 v.
 Secretary, DEPARTMENT OF
 HEALTH AND SOCIAL SERVICES,
 Respondent.
 Case No. 88-0087-PC
 * * * * *

DECISION
 AND
 ORDER

This matter is before the Commission on a motion to dismiss filed by respondent Department of Health and Social Services. The parties have been provided an opportunity to file briefs and the following facts appear to be undisputed.

1. At all times relevant to this appeal, the appellant's position has been classified as an Education Director (PR 01-16) at the Fox Lake Correctional Institution.

2. On February 3, 1987, the Department of Employment Relations issued bulletin CC-107, entitled "Modification to the 1985-87 Compensation Plan Regarding Add-on Amounts for Teachers and Teacher-Supervisors." The bulletin provided in part:

These modifications provide for certain amounts to be added onto the base rate of employes in the Teacher 1 and 2 and Teacher-Supervisor 1 and 2 classes.

The concepts of these add-on's is to provide additional compensation for Teachers or Teacher-Supervisors who earn additional college credits beyond those required for basic certification as a Teacher in the State of Wisconsin. In order for the add-on to be applied, the appointing authority must make a determination that the additional credits are relevant to the duties and responsibilities of the position. These add-on's are not part of base pay and must be discontinued when an incumbent

ceases to hold a Teacher or Teacher-Supervisor position. The amount of the add-on must also be re-evaluated by the appointing authority when an incumbent moves to a different Teacher and/or Teacher-Supervisor position.

3. On February 27, 1987, this memo, along with a cover memo from respondent DHSS's Bureau of Personnel and Employment Relations was issued to the various correctional institutions. These materials specifically excluded Education Director positions from receiving any add-on.

4. An add-on is designed to bring the salaries of Teacher and Teacher Supervisor position in the correctional institutions in line with their contemporaries in the public and vocational educational systems.

5. When Education Directors questioned the rationale behind their exclusion from receiving the add-on, they were advised by a Division of Corrections (DOC) employe that a survey of the Education Directors positions was being conducted which would address the add-on issue.

6. In early May of 1988, complainant first learned from another DOC employe that they had no information that an Education Director classification survey had ever been authorized.

7. Appellant subsequently confirmed this information during a conversation with the Fox Lake Correctional Institution Personnel Director.

8. The Personnel Commission received appellant's letter of appeal on July 25, 1988.

DECISION

The Commission's jurisdiction over appeals from personnel transactions is limited by the language of §§230.44 and .45, Stats. Pursuant to §230.44(1), Stats:

(1) APPEALABLE ACTIONS AND STEPS. Except as provided in par. (e), the following are actions appealable to the commission under s. 230.45(1)(a):

(a) Decision made or delegated to administrator. Appeal of a personnel decision under this subchapter made by the

administrator or by an appointing authority under authority delegated by the administrator under s. 230.05(2).

(b) Decision made or delegated by secretary. Appeal of a personnel decision under s. 230.09(2)(a) or (d) or 230.13 made by the secretary or by an appointing authority under authority delegated by the secretary under s. 230.04(lm).

(c) Demotion, layoff, suspension or discharge. If an employe has permanent status in class, the employe may appeal a demotion; layoff, suspension, discharge or reduction in base pay to the commission, if the appeal alleges that the decision was not based on just cause.

(d) Illegal action or abuse of discretion. A personnel action after certification which is 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.

None of these provisions include the subject of the instant appeal. The present case can be viewed either as an appeal of a decision not to award add-ons to appellant's Education Director position or as an appeal of a tacit decision not to conduct a classification survey of the appellant's position.


Neither of these two decisions is a decision of the Administrator of the Division of Merit Recruitment and Selection (§230.44(1)(a), Stats.), or a reclassification/reallocation or regrade decision of the secretary of Department of Employment Relations (or delegated by the secretary) under §230.44(1)(b), Stats. Also, the two decisions in question are not disciplinary actions (§230.44(1)(c), Stats.) nor are they related to the hiring process (§230.44(1)(d), Stats.).

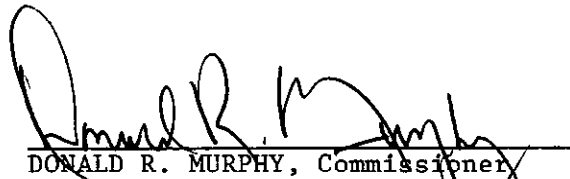
Therefore the Commission issues the following .

ORDER

This matter is dismissed for lack of subject matter jurisdiction.

Dated: December 5, 1988 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner

KMS:jmf
JMF05/2

Gerald F. Hoddinott, Commissioner, did not participate in the consideration of this matter.

Parties:

Thomas D. Olson
113 Cherokee Road
Beaver Dam, WI 53916

Patricia Goodrich
Secretary, DHSS
P. O. Box 7850
Madison, WI 53707