

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SUSAN L. ROSE-ADAMETZ, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION, Respondent.

Case ID: 291.0006

Case Type: PA

DECISION NO. 37940-A

Appearances:

Susan L. Rose-Adametz, 303 School Street, Cobb, Wisconsin, appearing on her own behalf.

Benjamin R. Jones, Chief Legal Counsel, Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Public Instruction.

DECISION AND ORDER

On December 6, 2018, Susan L. Rose-Adametz filed an appeal with the Wisconsin Employment Relations Commission asserting the State of Wisconsin Department of Public Instruction acted illegally or abused its discretion when it did not select her for the Management Information Chief-IT Customer Services Support Team position. The appeal was assigned to Examiner Peter G. Davis. A hearing was scheduled for February 28, 2019, but was postponed while Rose-Adametz sought legal counsel.

On April 12, 2019, the State of Wisconsin Department of Public Instruction filed a motion for summary judgment. On May 23, 2019, the Commission issued a Decision and Order Denying Motion for Summary Judgment. Hearing was held on June 26, 2019, in Madison, Wisconsin. Both parties made oral argument at the hearing's conclusion.

On July 16, 2019, Examiner Davis filed a Proposed Decision and Order. Rose-Adametz filed objections on August 14, 2019. The State did not respond and the matter became ripe for Commission consideration on August 30, 2019.

Being fully advised in the premises, the Commission makes and issues the following:

FINDINGS OF FACT

1. Susan L. Rose-Adametz is employed by the State of Wisconsin Department of Public Instruction.

2. Rose-Adametz applied for but did not receive the Management Information Chief-IT Customer Services Support Team position at the State of Wisconsin Department of Public Instruction.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

CONCLUSIONS OF LAW

1. The Wisconsin Employment Relations Commission has jurisdiction over this appeal pursuant to § 230.44 (1)(d), Stats.

2. Susan L. Rose-Adametz has the burden of proof to establish the State of Wisconsin Department of Public Instruction acted illegally or abused its discretion when she was not selected for the position of Management Information Chief-IT Customer Services Support Team.

3. The State of Wisconsin Department of Public Instruction did not act illegally or abuse its discretion by failing to select Susan L. Rose-Adametz for the position of Management Information Chief-IT Customer Services Support Team.

Based on the above and foregoing Finding of Fact and Conclusions of Law, the Commission makes and issues the following:

ORDER

The appeal is dismissed.

Dated at Madison, Wisconsin, this 20th day of September , 2019.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Section 230.44(1)(d), Stats., provides:

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.

An illegal act is one that is contrary to Wisconsin civil service statutes or administrative rules. An abuse of discretion is when an agency exercises discretion “to an end or purpose not justified by and clearly against reason and evidence.” *Moeller-Bunker v. DWD*, Dec. No. 36786 (WERC, 5/17).

A four-person Wisconsin Department of Public Instruction (DPI) employee team interviewed nine applicants for the position of Management Information Chief-IT Customer Services Support Team. Four applicants were recommended to fill the position and five applicants (including Rose-Adametz) were not. All applicants were asked the same interview questions and each member of the interview team separately scored the applicants’ answers as “More than acceptable,” “Acceptable,” or “Less than acceptable.” Not all team members provided a score on each question for each applicant.

Rose-Adametz asserts that a majority of the four-person interview panel did not objectively rate her answers to the interview questions. She particularly focuses on one panel member who she contends has a strong personal dislike for her. Secondly, she attacked the objectivity of another panel member who she alleges has displayed a combative attitude toward her work in the past. As to a third panel member, she infers he had already selected the ultimately successful candidate before the interview process had been completed. As to the fourth panel member, she takes no issue with that person’s objectivity.

The hearing exhibit as to how Rose-Adametz was scored by each member of the interview panel has the potential to provide reliable, relevant evidence as to whether there was bias by interview panel members. A review of the scoring of Rose-Adametz’ interview responses indicates the scoring of the panelist as to whom Rose-Adametz takes no issue closely correlates (four “Acceptable” responses and nine “Less than Acceptable” responses) with the scoring of the one panelist she identified as most problematic (four “Acceptable” responses and ten “Less than Acceptable” responses). Thus, while there is evidence in the record that there is some at least professional animosity toward Rose-Adametz by this panelist, the interview response evidence persuades the Commission any such animosity did not influence the scoring. The panelist who Rose-Adametz identified as combative and thus biased provided a more positive rating (three “Acceptable,” one “More than Acceptable,” and six “Less than Acceptable”) than did the panelist as to whom Rose-Adametz takes no issue. As to this panelist, there is no persuasive external evidence of animosity and the interview response evidence persuades the Commission the scoring was objective.

As to alleged bias by a third panel member, Rose-Adametz asserts the interview process was a sham because the ultimately successful candidate had been identified prior to completion of the interview process. In support of this assertion, Rose-Adametz cites a post-interview remark made to her by the ultimately successful applicant to the effect, “I plan on being the new manager.” This remark can easily be viewed as that of a confident applicant rather than one who knows “the fix is in,” and falls far short of meeting Rose-Adametz’ burden of proof as to bias of the third panel member or as to the process as a whole.

Given the forgoing, it is concluded that Rose-Adametz has not proven that DPI acted illegally or abused its discretion when she did not receive the position of Management Information Chief-IT Customer Services Support Team. Therefore, the appeal is dismissed.

Dated at Madison, Wisconsin, this 20th day of September , 2019.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Chairman