

BEFORE THE STATE BOARD OF PERSONNEL

Warren W. Neff,)
Appellant,)
vs.)
C. K. Wettengel, Director,)
Bureau of Personnel,)
Respondent,)

MEMORANDUM DECISION

In 1969, the Respondent Director conducted a survey of laundry positions in the classified service. As a result thereof, he proposed to this Board that certain existing classes be abolished and that certain new classes be created in lieu thereof. He also proposed that the newly created classes be assigned to salary ranges. On June 20, 1969, after an in depth review of the Respondent Director's said proposal, this Board approved them and they became effective.

All of this was done pursuant to s. 16.105 Wis. Stats. and by its authority. While it is an action of the Director in the literal sense, the Board does not consider it to be the type of action that s. 16.05 Wis Stats. declares is appealable to this Board. Such actions are not unilateral on the part of the Director. They become bilateral because this Board as the "watchdog of the civil service" has participated in said actions by giving its approval thereto. It must be presumed that this Board in considering whether or not it should approve the Director's action has fully considered the rights of all "interested" parties. This Board cannot subscribe to the anomaly that it should hear a challenge of an action in which it has participated.

What the Board is precisely saying is that it cannot entertain appeals relative to the abolition or creation of classes, the job content of a class or its title and the assignment of a class to a salary range. If there is to be challenge in any of those areas, it must be by way of judicial review of this Board's action of granting approval of what the Director has done.

Prior to the foregoing approval, the position of the Appellant had been allocated to the class Laundry Supervisor 2. This is one of the classes that was abolished. It then became incumbent upon the Respondent Director to reallocate the Appellant's position to a proper existing class. The Respondent reallocated Appellant's position to the Youth Counselor 2 class.

This type of action by the Director is purely unilateral; this Board does not take part in such actions. Hence it is an action of the Director that is appealable to this Board under s. 16.05 Wis. Stats.

Hence, on this appeal, this Board should determine whether Appellant's position was properly reallocated to Youth Counselor 2 as the Appellant contends, or whether it should have been reallocated to some more appropriate classification.

To meet the requirements for Youth Counselor 4, the duties and responsibilities of Appellant's position must include :

- (a) Responsibility for one major administrative program;
- (b) Acting as an assistant to a shift supervisor;
- (c) Supervisory responsibilities other than supervision of inmates.

It is clear from the Appellant's Position Description Questionnaire and from his own admissions, that the duties and responsibilities of his position meets none of these requirements. Likewise Appellant performs none of the work referenced in "Examples of Work Performed" as contained in the specifications for Youth Counselor 4.

