

On February 26, 1971, the local administration did petition the University's Central Personnel Office for a change in Appellant's classification to Maintenance Mechanic 2.

In April of 1971, Central Personnel audited the position and concluded that Maintenance Mechanic 2 was not appropriate and that the appropriate classification would be Maintenance Mechanic 1, which is in salary range 3-07. This is two ranges below Maintenance Operations Foreman and three ranges below Maintenance Mechanic 3.

The testimony of G. Thomas Bull, Director of Employment Relations in Central Administration of the University of Wisconsin System best explains what happened thereafter. Record, pages 13, 14.

Q. Did your office initiate the requirement that then some reclassification go through in terms of Mr. Juech in effect downgrading him?

A. Well, our response to this general problem at approximately the same time, I don't recall the exact date, April or May of '71, was to visit the Washington County Campus and discuss with the administration the situation revolving around this classification request. Our indication at that time was that, that rather than this reclassification request being appropriate it would seem to us the administration would have one of two choices. One was to reorganize the operations of the campus from the maintenance point of view and create a full time mechanic, and also create a supervisor in the custodial unit which would have entailed the layoff of the operations position as being abolished. That was possible, of course, with the incumbent being offered the opportunity to bump into the mechanic's job. Or the other alternative, which was to take away the supervisory duties for cause and operate under an involuntary demotion procedure.

Q. From the letter written June 4, then the campus took the second course of action which was to reclassify him?

Chairman Shields: Second course of action he described was involuntary demotion?

Mr. Wagner: Right.

Q. Even though they called it reclassification, would you construe this as the involuntary demotion?

A. That's the way, that's the way I would have construed it, yes.

The letter of June 4, 1971, Board's Exhibit 1, to Appellant from Ronald Moss, Assistant to the Dean, reads:

"On July 1, 1971 you will be reclassified as a full-time "Maintenance Mechanic I" on the Washington County Campus. This reclassification is the result of the reorganization of the maintenance personnel on the campus.

In this new classification you will be responsible for maintaining in good operating condition and repairing, insofar as possible, all mechanical equipment, the plumbing facilities, electrical systems, and all necessary building repairs. A photocopy of the "Position Description Form" is enclosed to give you a more detailed description of the Maintenance Mechanic I position. You will receive the "employee copy" of the form after the necessary paper work has been completed.

I will discuss with you the list of duties outlined so that you will have an opportunity to ask any questions you might have concerning your responsibilities. Or, if you know you do not want to accept the new position, you may appeal the action to the PERSONNEL BOARD within ten days of the effective date.

If you have any questions whatsoever on the reclassification, do not hesitate to ask."

While all of the discussion between the parties was of "reclassification", what the Respondent really had in mind and did was to "demote" the Appellant in both pay and position.

This appeal is in fact an appeal from a demotion and not an appeal from a reclassification. s. 16.24(1)(a) Wis. Stats. governs the demotion of a classified employe:

"No permanent subordinate or employe in the classified service who has been appointed under ss. 16.01 to 16.32 or the rules made pursuant thereto shall be removed, suspended without pay, discharged, or reduced in pay or position except for just cause which shall not be religious or political. No suspension without pay shall be effective for more than thirty days. In all such cases the appointing officer shall, at the time of such action, furnish to the subordinate in writing his reasons for the same. The reasons for such action shall be filed in writing with the director within five days of the effective date thereof. . . ."

(Underlining is ours)

The letter of June 4 set out above is the action of demotion (reduction in pay or position). It contains nothing that could be interpreted as a reason for the action, except "reorganization of maintenance personnel". This reorganization did not take place; it was the alternative that was not taken to the demotion of the Appellant. Even had there been such reorganization, an employe may not be involuntarily demoted or reduced in pay or position in lieu of layoff. See Szech Matter, Thomas Matter, Case No. 381 and Attorney General's Opinion, dated 2-5-65.

There is no evidence that any "reasons" were filed in writing with the Director as required by statute.

Respondent argues that there was no purpose to be served by assigning "reasons" at the time of the demotion action, for the friction between the parties was an on-going affair and Appellant was aware of why the action was taken.

This all may be true, but this Board is committed to the proposition that the wording of statutes so far as they relate to concerns of the Board are mandatory and not directive. If any disciplinary action contemplated by s. 16.24(1)(a) is to be effective as such, the mandate of the statute must be complied with.

As the reasons for the action of demotion were not given to Appellant in writing at the time of the action, to-wit: June 4, 1971, that action was of no effect.

Consequently, Appellant is now and has been a Maintenance Operations Foreman in salary range 3-09 and is entitled to have received and to receive the compensation accorded to that classification.

So far as is necessary, Appellant is reinstated as a Maintenance Operations Foreman as of July 1, 1971, having been unlawfully demoted.

Dated: January 13, 1972

STATE PERSONNEL BOARD

BY

[Handwritten Signature]

