
WILLIAM GOEHRING,

Appellant,

v.

MANUEL CARBALLO, Secretary,
Department of Health & Social Services,
and VERNE KNOLL, Deputy Director,
State Bureau of Personnel,

Respondents.

Case Nos. 74-128, 75-227

OFFICIAL
INTERIM
OPINION AND ORDER

Before: DEWITT, Chairperson, WILSON, WARREN, and MORGAN, Board Members.

These cases involve appeals of the denial of Appellant's entry to certain examinations on the basis of failure to meet the qualifying training and experience. In an interim opinion and order entered in 74-128 on December 22, 1975, we rejected the Respondents' assertion that the case had been rendered moot by the fact that the register created by the examination had been voided because of a hiring freeze. Appellant also filed another appeal (75-227) with regard to the "decision of the Division of Family Services in not allowing me to compete in the examination for Social Services Specialist 2-County Liason Specialist-Fond du Lac Area." (letter of November 3, 1975). At this point there is a dispute concerning the handling of these cases. The Appellant desires separate hearings, with 74-128 heard and decided first. The Respondents object to this and argue that the issues and proof in both cases are virtually identical and that the cases should be consolidated for hearing.

The determination of whether appeals should be consolidated for hearing is a matter for administrative discretion. See 73 C.J.S. Public Ad-

ministrative Bodies and Procedure, Section 118. In this instance, we perceive no prejudice to the Appellant in consolidation and a net balance of administrative economy in such a move. Accordingly, the cases will be consolidated for hearing and decision.

Another preliminary issue concerns the allocation of the burden of proof. Normally the burden of proof is on the Appellant challenging state action. See 2 Am. Jur. 2d Administrative Law S. 391, 73 C.J.S. Public Administrative Bodies and Procedure S. 124. In Kuter and North v. Wettengel, Wis. Pers. Bd. No. 73-152, 159 (7/3/75), we held that the burden of proof with regard to exam validation was on the state who, in that case, was defending the validity of the examination and who had peculiar means of knowledge regarding the information necessary to that determination. In Pulliam and Rose v. Knoll, Wis. Pers. Bd. No. 75-51 (4/19/76), we pointed out that the allocation of the burden of proof does not depend on a set formula but involves an exercise of discretion and the consideration of the facts and circumstances of each case.

In this case the issue involves the question of whether Appellant's training and experience evaluated against the requirements for the position should have gained him entry into the examination. This does not appear to be a case where the state has peculiar means of knowledge of the facts relating to the matters in issue, nor do we perceive that there are other reasons for making an exception to the normal rule and shifting the burden of proof from the Appellant.

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ORDER

IT IS ORDERED that these cases be consolidated for hearing and decision, and that the burden of proof is on the Appellant.

Dated February 23, 1977.

STATE PERSONNEL BOARD

Laurene DeWitt

Laurene DeWitt, Chairperson