



was effective March 1, 1981, provides in part as follows:

"(b) In pay schedules where appropriate, on promotion an employe's present pay rate shall be increased to either 110% of the employe's present pay rate, or to the minimum of the new range, whichever is greater."

In order for this transaction to be appealable to the Commission, it must fall within the appealable matters set forth in ss230.44 and/or 230.45, stats. Therefore, the Commission will examine each of the potentially applicable subsections to determine if they provide any basis for jurisdiction.

Sec. 230.44(1) (a) and (b) provide for appeals of personnel decisions of the administrator of the division of personnel, taken either directly by the administrator or on a delegated basis.

The decision as to the salary to be paid following promotion is not that of the administrator or anyone acting in his place and stead on a delegated basis. By law, the authority to determine an employe's compensation is vested in the appointing authority, see s.230.06(1) (b), stats.; here, the Board of Regents. While it is true that the administrator was responsible for the promulgation, subject to the approval of the personnel board, of the rule in question, this does not make the transaction of determining the employe's salary any the less the legal action of the appointing authority.

Sec. 230.44(1) (c), stats., provides for the appeal of certain disciplinary matters. This appeal is not an appeal of a demotion, layoff, suspension, discharge, or reduction in pay.

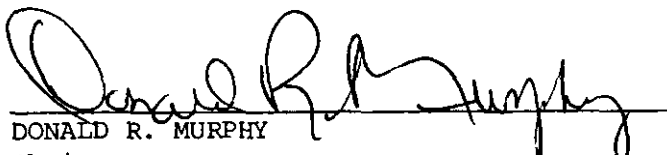
Sec. 230.44(1) (d), stats., provides for appeals of personnel actions after certification which are related to the hiring process in the classified service and which are alleged to be illegal or an abuse of discretion. The determination of a promoted employe's salary is not "related" to the hiring process. The

different points in the pay range due to longevity, performance awards, etc. What this controversy appears really to concern is whether s. Pers 29.03(4)(b), Wis. Adm. Code, is proper since it permits a newly-promoted employe to be paid at 110% of his or her previous salary, and since some pay ranges overlap, this may result in a new salary higher than an employe with more seniority in the higher classification. If it is felt that this rule is invalid, it can be challenged by a declaratory judgment proceeding in circuit court pursuant to s.227.05, stats. If the appellants believe that the rules should be changed to increase the salary of employes promoted prior to the effective date of the rule, they could petition the administrator pursuant to s.227.15 stats., for such a change.

ORDER

This appeal is dismissed for lack of subject matter jurisdiction.

Dated: Nov. 19, 1981 STATE PERSONNEL COMMISSION

  
DONALD R. MURPHY  
Chairperson

AJT:ers

Parties

George Black  
William Black  
Allan Morschauser  
Ananda Sathasivam  
Bernard Van Alstine  
505 N. Walnut St.  
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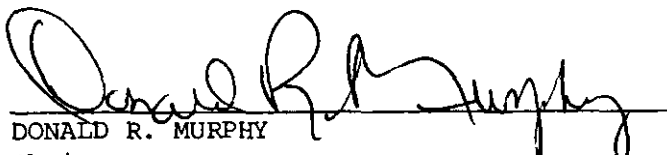
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