

original

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *

PRISCILLA OLBRANTZ &
ELLEN HARRING,

Appellants,

v.

Secretary, DEPARTMENT OF
HEALTH & SOCIAL SERVICES,

Respondent.

Case No. 81-462 & 468-PC

* * * * *

DECISION
AND
ORDER

This matter is before the Commission as an appeal from an unsuccessful transfer. At the prehearing conference, the respondent objected to the authority of the Commission to hear the appeal. The parties stipulated to certain facts and agreed to have the Commission make its ruling on the basis of the contents of the file and the stipulation. The findings below are based on the stipulation of the parties or upon what appears to be undisputed matter.

FINDINGS OF FACT

1. At all times relevant to this appeal, the appellants were employed as Program Assistant 2's at the Green Bay Correctional Institute. Their positions were within a recognized bargaining unit that had a labor agreement in effect.

2. On October 2, 1981, respondent issued a promotional announcement for a Clerical Supervisor 2 position in the Green Bay area. The announcement included the following information:

"WHO MAY APPLY: This is a competitive promotional examination open to any classified employe in the Department of Health and Social Services not serving on a limited term, project, emergency or provisional employment basis. Seasonal or probationary employes are eligible to compete.

* * *

BARGAINING UNIT DESIGNATION: This classification is not included in any certified bargaining unit.

* * *

HOW TO APPLY: Submit a completed State application form to Joanne Brockmann (608-266-0584); DHSS Bureau of Personnel and Employment Relations; Room 685; One West Wilson Street; P.O. Box 7850; Madison, WI 53707"

3. On October 6 and 7, 1981, the appellants submitted separate transfer request forms. Both of the appellants specifically requested transfer to the Clerical Supervisor 2 position in Green Bay that was the subject of the October 2, 1981 announcement. Both requests showed the appellant's current civil service classification as Program Assistant 2. Both request forms, signed by the appellants, included the following statement:

"In accordance with the provisions of the contract under which I am covered, I am registering this request for transfer to another position in my civil service classification as indicated above. I understand that this transfer request will be used to fill permanent vacancies in the classification at the requested location and/or schedule."

4. An examination was conducted by the respondent for the Clerical Supervisor 2 position. The appellants were not examined.

5. The appellants were not certified for the position of Clerical Supervisor 2 in Green Bay.

CONCLUSION OF LAW

The Commission lacks subject matter jurisdiction over these appeals.

OPINION

In their letter of appeal, the appellants suggest that the respondent's Personnel Bureau was remiss in not timely informing them that they should have grieved their concerns. Respondent also argues that because the appellants were never certified for the Clerical Supervisor 2 position, there can be no jurisdiction exercised under s.230.44(1)(d), Wis. Stats.

The decision complained of by the appellants, i.e. respondent's decision not to send the transfer requests back to the appellants and tell them to file an application, is not a decision that the Commission may review. It is not a decision that constitutes an action delegated by the administrator as provided in s.230.44(1)(b), Wis. Stats., nor is it a "personnel action after certification which is related to the hiring process." S.230.44(1)(d), Wis. Stats. The decision clearly occurred prior to the time of the certification, and, in fact, the appellants were never certified for the position in question. None of the other statutes that established the Commission's jurisdiction may be read to apply to the instant appeal. See ss.230.44 and 45, Wis. Stats. The appellants' argument that the Clerical Supervisor 2 was not in the bargaining unit but did have the same pay range as their Program Assistant 2 positions does nothing to create jurisdiction over this matter by the Commission.

ORDER

These appeals are dismissed for lack of subject matter jurisdiction.

Dated: March 4, 1982

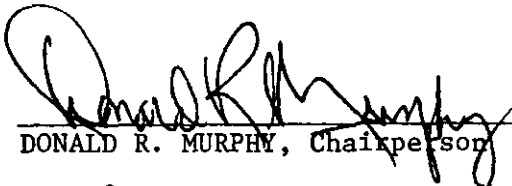
STATE PERSONNEL COMMISSION

Parties

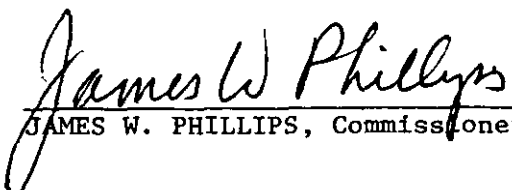
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