

* * * * *

TERESSA LAWLESS, *

Complainant, *

v. *

Chancellor, UNIVERSITY OF *

WISCONSIN - Madison, *

Respondent. *

Case No. 90-0023-PC-ER *

* * * * *

ORDER

This matter is before the Commission following the filing of a settlement agreement executed by the parties. This agreement contains a clause providing that the parties jointly petition the Commission to withdraw its April 12, 1990, decision in this matter. While the Commission does not perceive a basis for withdrawing the decision, and therefore denies the petition, it observes that any precedential value of said decision should be considered in light of the following points:

1. This is a case of first impression for the Commission under the newly enacted family and medical leave act;
2. This case was submitted on the basis of a limited evidentiary record and without a hearing;
3. The parties submitted this case in a manner, both in terms of facts and argument, which focused, to a large extent, on issues other than those which served as the bases for the Commission's conclusions;
4. The petition for rehearing was filed by an intervenor who had not participated previously in this proceeding. The point which proved to be dispositive in the Commission's granting of rehearing was not set forth explicitly in the petition but was contained in a copy of a staff memo attached to the petition, and the original parties had not specifically contested this point in the prior proceedings before the Commission;

5. The order entered in the ruling on petition for rehearing dated June 1, 1990, ordered a rehearing on the basis of "a material error of law, or material error of mixed fact and law," and further gave the parties "an opportunity to address the effect of the foregoing conclusions [contained in the ruling on the petition for rehearing] on the ultimate conclusions and order entered by the Commission on April 12, 1990."

Based on the remainder of the settlement agreement (i.e., except for the aforesaid joint petition), this matter is dismissed.


Dated: January 11, 1991

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

AJT/gdt/2


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

Parties:

Teressa Lawless
5204 Turner Avenue
Madison, WI 53716

Donna Shalala
Chancellor, UW-Madison
500 Lincoln Drive
Madison, WI 53706