



**Members**  
James Paul Geary  
Orton A. Jones  
David L. White

**WEST VIRGINIA EDUCATION  
EMPLOYEES GRIEVANCE BOARD**

**ARCH A. MOORE, JR.**  
Governor

**Offices**  
240 Capitol Street  
Suite 508  
Charleston, WV 25301  
Telephone 348-3361

DORIS DORSEY

v.

DOCKET NO. 28-86-179-2

POTOMAC STATE COLLEGE

DECISION

Grievant, Doris Dorsey, has been employed by the Board of Regents since 1974, assigned as secretary to the Athletic Department at Potomac State College. Ms. Dorsey has filed two grievances in which she alleges discriminatory and unfair treatment. At level two the grievances were consolidated and a hearing was conducted by Dr. Edwin R. Smith, the designated representative of President Diane Reinhard. Based on Dr. Smith's findings and recommendations the grievance was granted in part and denied in part. Ms. Dorsey appealed to level four and a hearing was held on November 10, 1986.

Ms. Dorsey began her employment at Potomac State College in 1974, as a full time employee, twelve months per year. In May, 1980, her status was changed from full-time (37½ hours per week) to part-time (25 hours per week.)

In April, 1983, grievant's employment was again reduced from twelve to nine months per year. This change in status

was attributed to a reduction of funds for the summer session.

Early in 1986 Ms. Dorsey submitted an application for the full-time position of administrative clerk. Ms. Dorsey was not one of the top five applicants as determined by a newly instituted screening test and was not interviewed for the position.

In the level two decision President Reinhard reinstated Ms. Dorsey's twelve month employment term but denied the increase back to full-time and determined there was no unfair treatment in filling the position of administrative clerk.

Ms. Dorsey states that in 1980 she appeared on behalf of her immediate supervisor at his dismissal hearing. She believes that her action displeased Dr. James McBee, Executive Dean of Potomac State College, and notes that her employment problems began soon after. In addition to the three situations included in this grievance, Ms. Dorsey states she has not been allocated office supplies, is not permitted to work overtime as are other employees, and was the only employee at Potomac State not invited to the annual party held at Dean McBee's home.

These allegations were supported by Linda Lancaster, Executive Secretary of Faculty Services, who testified that she had been asked to order office supplies for the Athletic Department over a period of three or four years and that she has on occasion been forced to neglect her regularly assigned

duties to assist Ms. Dorsey in the timely completion of Athletic Department work.<sup>1</sup> Ms. Lancaster states that in the past she has been permitted to work overtime when necessary.

Nancy Hockensmith, Associate Dean and the grievant's supervisor, testified that, in her opinion, the position held by Ms. Dorsey would be more adequately served by a full-time employee and that she has verbally requested the position to be upgraded. Dean Hockensmith also stated that on one occasion Dean McBee approved an additional ten hours work for the grievant but stated his opinion that extra hours were not necessary. Further, the witness indicated that she was not aware of any other instances of reduced employment at the college.

Neither Dean McBee nor any other witnesses appeared on behalf of the respondent regarding the reduction of hours or discriminatory treatment issues.

Abraham Evans, Assistant Dean for Business Affairs, appeared on behalf of the respondent and offered testimony regarding the position of Administrative Clerk. Dean Evans stated that following advertisement of the position he received approximately 100 to 110 applications. Due to the large number of applications, a test was developed and utilized as a screening

---

<sup>1</sup>Ms. Lancaster stated that she has never been requested to order supplies for any other office on campus, nor has anyone ordered supplies for her.

tool. The five applicants with the highest scores were interviewed for the position. As Ms. Dorsey did not receive one of the top scores she was not interviewed for the position. The grievant was given no special consideration because of her present employment status at the college.

In addition to the foregoing it is appropriate to make the following findings of fact and conclusions of law.

#### Findings of Fact

1. The grievant has been employed by the Board of Regents since 1974, assigned as secretary to the Athletic Department at Potomac State College.

2. The grievant is the only secretary assigned to the Athletic Department.

3. Prior to 1980, the grievant was a full-time, twelve month employee.

4. In 1980 the grievant appeared as a witness on behalf of another employee at a dismissal hearing.

5. In May, 1980, the grievant's status was changed from full-time (37½ hours per week) to part-time (25 hours per week). This adjustment was not made for budgetary considerations but is a management prerogative according to Dr. Edwin Smith, President Reinhard's designated representative at the level two hearing.

6. In April, 1983, the grievant's employment was reduced from twelve to nine months per year. This change in status was attributed to a reduction of funding for the summer session.

7. The grievant's workload has not been reduced subsequent to the reductions in her employment time.

8. In addition to a loss of employment time, the grievant has been denied office supplies, is not allowed to work overtime and was the only employee not to be invited to Dean McBee's annual party.

9. Ms. Dorsey applied for a full-time position in early 1986 but was not interviewed as she had not received one of the top five scores on the screening test.

10. At level two President Reinhard reinstated the grievant's twelve month employment term but denied her request to be upgraded to 37½ hours per week. President Reinhard found no unfair treatment in the filling of the position of administrative clerk.

11. No witnesses appeared, nor was any explanation offered by the respondent at the level four hearing regarding the reduction of the grievant's employment status or her claims of discriminatory treatment.

12. Respondent has not shown any other instances where an employee's work time has been reduced for budgetary or other reasons.

### Conclusions of Law

1. "Discrimination" means any differences in the treatment of employees unless such differences are related to the actual job responsibilities of the employees or agreed to in writing by the employee. W. Va. Code, 18-29-2 (m).

2. "Reprisal" means the retaliation of an employer or agent toward a grievant or any other participant in the grievance procedure either for an alleged injury itself or any lawful attempt to redress it. W. Va. Code, 18-29-2 (p).

Accordingly, it is Ordered that the grievance is granted in part, and denied in part. While it does not appear that any unfair treatment was involved in the filling of a vacant position, the grievant has shown a pattern of discriminatory treatment which began with her involvement in another employee's grievance. Therefore, it is ORDERED that the grievant be reinstated to full-time status of 37½ hours per week.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Mineral County and such appeal must be filed within thirty (30) days of receipt of this decision. (W. Va. Code, 18-29-7). Please advise this office of your intent to do so in order that the record can be prepared and transmitted to the Court.

DATE December 29, 1986

Sue Keller  
SUE KELLER  
Hearing Examiner