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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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RUFUS W. PARK

vs.

JEFFERSON COUNTY SCHOOLS

DOCKET NO. 19-86-010

DECISION

FINDINGS OF FACT

1. Rufus W. Park, grievant, has been employed by the Jefferson County Board of Education since 1973 as comptroller.
2. The position of comptroller is not a defined position in Chapter 18A of the W.Va. Code; however, the grievant is placed in the category of director or coordinator of services defined in W.Va. Code, 18A-4-8. (See Grievant's Exhibit #9.)
3. The position of comptroller/director or coordinator of services is classified by law as service personnel.
4. The grievant is the only employee in the Jefferson County school systems holding the position of comptroller.
5. The grievant's duties include preparation of budgetary matters, payroll, insurance forms and retirement plans.
6. In August, 1985 Superintendent Raymond H. Frazier, Jr. recommended to the Board of Education that salary increases be approved for professional administrative personnel, individual directors and other employees.
7. The Superintendent did not recommend a salary increase for grievant.

8. The directors of transportation and maintenance, both service personnel employees, were granted salary increases.

9. The grievant alleges a misapplication of W.Va. Code, 18A-4-5a, favoritism and discrimination.

The grievant asserts that comptroller is an administrative position with duties comparable to other directors and that the failure of the county to recommend or approve an increased salary supplement for him has resulted in a situation where his salary has failed to increase proportionally over time with that of other administrative employees. The grievant further states that he does not receive, but is entitled to "position pay", an additional salary supplement awarded to certain individuals.

The grievant asks that he be given an annual salary increase of \$1,965.70 retroactive to July 1, 1985, position pay of \$175.00 per month for the period of July 1, 1975 through July 1, 1985 computed by the grievant to total \$22,837.50 plus a reimbursement of expenses incurred at level four, including attorney's fees.

The Board argues that while the grievant holds an administrative position, it is inappropriate to compare the position of comptroller with professional administrative positions. The educational requirements and job duties are so dissimilar that no meaningful comparision could be made.

Second, salary increases were granted to two service personnel directors as the salaries for these positions had not been commensurate with the duties and responsibilities assigned to the individuals and that both of these employees continue to earn less than the grievant.

Third, not all directors or administrators were given salary increases. In addition to the grievant, the Treasurer was given no increase.

Fourth, the grievant is in pay grade H, the maximum pay grade for service employees, he receives the second highest salary of all employees in that pay grade and he receives a county pay supplement in excess of \$5,000.00 in addition to the minimum pay schedule.

Fifth, position pay is given to some administrators such as principals and the Treasurer as a means of salary augmentation. It is not given to the comptroller.

CONCLUSIONS OF LAW

1. A county board of education may establish salary schedules in excess of the state mandated minimum so long as said salaries are applied uniformly to all persons performing like assignments and duties and with regard to training classification, experience, and other factors.

W.Va. Code, 18A-4-5b.

2. Position pay, which is also compensation in excess of the minimum salary schedules, must be applied in conformity with W.Va. Code, 18A-4-5b.

3. The job title of director or coordinator of services, which both parties agree includes the position of comptroller, is classified as service personnel and requires a minimum pay grade of H.

4. The grievant does not have an educational background or job responsibilities comparable to professional administrators.

5. While W.Va. Code, 18A-4-5b requires that excess salary be awarded uniformly it does not require that all employees be granted salary increases simultaneously.

6. No evidence has been presented to support the allegations of favoritism and discrimination as defined in W.Va. Code, 18-29-2.

As the grievant has failed to show a lack of uniformity of salary between himself and any other employee with like assignment and duties, this request for a salary increase and position pay must be denied.

An award of expenses incurred at level four, including attorney's fees, if any, may only be granted upon a final judgment or order of a circuit court and therefore must also be denied. W.Va. Code, 18A-2-11.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Jefferson County and such appeal must be filed within thirty (30) days of receipt of this decision. (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.

Sue Keller

HEARING EXAMINER

DATED: 4/15/86