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**WEST VIRGINIA EDUCATION  
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**HARPAL SINGH**

**vs.**

**DOCKET NO. 30-86-044**

**WEST VIRGINIA UNIVERSITY**

**DECISION**

The grievant, Harpal Singh, has been employed by the Board of Regents since 1969 and is presently assigned to the position of Food Service Manager II at the cafeteria of West Virginia University Hospitals, Inc. Ms. Singh has filed this grievance subsequent to a letter of warning being placed in her personnel file by Margaret Abbott, Director of Dietetic Services, and her supervisor. Ms. Singh asserts that she is being used as a scapegoat for problems in the Nutrition and Dietetics Unit, that she is directed to complete unrealistic goals, that unfair expectations are set for her, and that she is being harrassed. Ms. Singh requests that the letter of warning be removed from her file and that a job management procedure which would allow her to meet performance goals in a professional manner be implemented.

Extensive documentation submitted by the grievant at

the level four hearing indicates that in early January, 1985, Ms. Abbott completed an evaluation of Ms. Singh's job performance which Ms. Singh refused to sign on the grounds that it was arbitrary, discriminatory and capricious. At that time a grievance was filed in which Ms. Singh demanded the removal of the evaluation from her file. At level two, Barry Hilts, Associate Administrator of Support Services at West Virginia University Hospitals, Inc. determined that performance appraisal is not a grievable issue, but that Ms. Singh's evaluation would be removed as a result of a review of the appraisal procedure. Mr. Hilts advised Ms. Singh that Ms. Abbott would help her develop a written list of services to be targeted for improvement and that her next evaluation would be based on the success of these improvements.

By memorandum dated February 15, 1985, Ms. Abbott listed seven objectives to be completed by Ms. Singh with the assistance of her supervisors and employees. Six of the seven objectives were assigned due dates, with all six to be completed by May 1, 1985.

In a series of memoranda beginning February 26, 1986 Ms. Singh lists the difficulties she encounters in the completion of the objectives and Ms. Abbott reminds the grievant of her

responsibilities and authority as a food service manager. On June 18, 1985 Ms. Abbott issued a letter of warning to Ms. Singh based on her untimely and/or unsatisfactory completion of the objectives and on an overall unacceptable job performance based on the job description for Food Service Manager II. The deadline for the satisfactory completion of the objectives was extended to July 19, 1985. Ms. Singh initiated grievance proceedings following receipt of this letter.

Ms. Singh states that her performance has been impaired by a staff shortage which requires her to function as a supervisor or food service worker in order to keep the cafeteria running smoothly. The grievant further states that she possessed a lack of knowledge or information required to complete the objectives and that she received a lack of structural or administrative support.

Evidence indicates that Ms. Abbott and David James, the present Director of the Department of Nutrition and Dietetics, provided Ms. Singh with direction and assistance towards completion of the objectives; that Ms. Singh had the responsibility and the authority to delegate duties to her employees to allow her free time during the work day in which to complete the objectives, and the due dates were extended

until July 19, 1985 allowing the grievant six months in which to satisfactorily complete the objectives.

As Food Service Manager II, the grievant is required to possess a baccalaureate degree and experience in the areas of food production, management and supervision. Ms. Singh is responsible for the management and supervision of the hospital cafeteria through the effective utilization of her staff. The job description for Food Service Manager II requires that the individual anticipate and control problems associated with a large group of people and in the management of a large supply turnover.

Harrassment is defined in W. Va. Code, 18-29-2(n) as "repeated or continual disturbance, irritation or annoyance of an employee which would be contrary to the demeanor expected by law, policy and profession." In this instance, Ms. Singh was given seven objectives to assist her own professional growth and to revise and improve the cafeteria services. Although Ms. Singh was not included in the development of the objectives or in the scheduling of the due dates, there is no indication of the grievant's being harrassed.

Ms. Singh's remaining charges appear to be discriminatory in nature, although they are not referred to as such. The

grievant has failed to show that she has received treatment different from any other similarly situated employee.

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

#### Findings of Fact

1. Harpal Singh has been employed by the Board of Regents since 1969 and presently functions as a Food Service Manager II at the West Virginia University Hospitals, Inc. cafeteria.

2. When Ms. Singh's January, 1985 evaluation was withdrawn from her personnel file she was given a set of objectives, six of which were to be completed by May 1, 1985.

3. A letter of warning was placed in the grievant's personnel file in June, 1985 citing her failure to timely and/or satisfactorily complete the objectives and her overall unacceptable performance.

4. Ms. Singh was directed and assisted in the completion of the objectives by Ms. Abbott and Mr. James and could have enlisted the assistance of her employees, had she chosen to do so.

#### Conclusions of Law

1. The grievant has failed to substantiate that she was harrassed as defined by W. Va. Code, 18-29-2 (n).

2. The grievant has failed to produce evidence supporting any other claims for relief.

3. It is incumbent upon the grievant to support by a preponderance of the evidence any claims made for relief under W. Va. Code, Chapter 18, Article 29.

In consideration of these findings and conclusions and the record in its entirety, the level two decision is hereby affirmed and this grievance is denied.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Monongalia 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.

DATED: Oct 15, 1986

Sue Keller

SUE KELLER  
Hearing Examiner