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**WEST VIRGINIA EDUCATION  
EMPLOYEES GRIEVANCE BOARD**

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MAXINE WARD

v.

Docket No. 49-86-244-2

UPSHUR COUNTY BOARD OF EDUCATION

DECISION

The grievant, Maxine B. Ward, was first employed by the Upshur County Board of Education in 1974 as a school health aide. In 1978, Ms. Ward was reassigned as a warehouse clerk, a classification which she held until promoted in March, 1983 to Warehouse Inventory Supervisor. In July, 1986, Ms. Ward applied for the position of Coordinator of Services, Warehouse.<sup>1</sup> Subsequent to the position being awarded to another, Ms. Ward filed a grievance alleging a violation of W. Va. Code, 18A-4-8 and 18A-4-8b. The grievance was waived to level two and following an evidentiary hearing was denied. The board of education waived consideration to level four where both parties have agreed to submit the matter for decision based upon the record supplemented with briefs.

The grievant alleges that she has been performing the duties described in the posting for the Coordinator position and therefore

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<sup>1</sup>This position is also sometimes referred to as the Director of Warehouse Services and is titled Warehouse Supervisor on the job description.

was the most qualified applicant as well as having been misclassified. At level four the grievant added a violation of W. Va. Code, 18-29-2(m) in alleging that she is a victim of sexual discrimination. As a result of her misclassification and denial of the position the grievant requests that she be awarded the position of Coordinator of Warehouse Services plus back pay from the time she assumed these duties.

The respondent denies that the grievant has performed the duties of the Coordinator who is responsible for the total supervision of warehouse operations. The respondent asserts that both the grievant and the successful candidate were determined to be equally qualified and that the decision was ultimately based on seniority.

In addition to the foregoing it is appropriate to make the following specific findings of fact.

#### Findings of Fact

1. The grievant has been employed by the Upshur County Board of Education since 1984 and presently holds the title of Warehouse Inventory Supervisor.

2. In July, 1986, the grievant, along with several other individuals applied for the position of Coordinator of Warehouse Services. Those applicants from within the county were interviewed by a committee composed of Superintendent Westfall, Assistant Superintendent Richard Hoover and Business Manager/Treasurer Lewis Simmons.

3. Following the interviews the committee determined that four of the candidates met the minimum job requirements for the position. None of the candidates held the classification of Director or Coordinator of Services.

4. As four candidates were determined to be qualified for the position, the committee chose the successful applicant based on the seniority of the candidates. Had Ms. Ward been the most senior candidates she would have been recommended for the position. (T.pp. 36,37,43, 47).

5. All committee members denied that the sex of the applicants was a factor in their recommendation. (T.pp. 36,43,47).

6. As Inventory Supervisor the grievant fills orders, receives merchandise, completes requisitions, maintains inventory, is involved in bookkeeping, cleans and does..."anything else that needs to be done." (T.p. 10). The Inventory Supervisor reports directly to the Coordinator of Warehouse Services.

7. The Coordinator of Warehouse Services performs duties virtually identical to those of the Inventory Supervisor and is additionally responsible for the supervision of the other members of the staff insuring the efficient operation of the entire warehouse. The Coordinator reports to the Business Manager. (Ex #6, T.p. 20,21).

8. The grievant does not allege that she ever has been or is now responsible for the supervision of other employees.

9. The successful applicant was previously employed as Director of Transportation and most recently as chief mechanic. Those positions required the supervision of employees, purchasing, inventory skills, and the completion of reports. (T. pp. 24,25).

10. The grievant has accrued twelve years of seniority while the successful applicant has earned thirty-one years seniority.

#### Conclusions of Law

1. A director or coordinator of services is defined as personnel who are not professional personnel or professional educators, assigned to direct a department or division. W. Va. Code, 18A-4-8.

2. The grievant has failed to show that she meets the requirements of the position of Coordinator of Warehouse Services and therefore is not entitled to reclassification under W. Va. Code, 18A-4-8.

3. W. Va. Code, 18A-4-8b requires that any decisions affecting promotion and filling of service personnel decisions are to be made on the basis of seniority, qualifications and evaluation of past service.

4. An applicant may be qualified for a position by holding a classification title in the category of employment or by meeting the definition of the job title as defined in W. Va. Code, 18A-4-8. Applicants who hold the appropriate classification

title must be given first opportunity for promotion and filling vacancies. W. Va. Code, 18A-4-8b.

5. The board of education has acted properly in hiring the employee with the most seniority when the applicants possessed similar qualifications and evaluations of past service.

6. The grievant has failed to show that the committee's recommendation was discriminatory, sexual or otherwise, as defined by W. Va. Code, 18-29-2(m).

Accordingly, the grievance is DENIED.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Upshur 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 February 17, 1987

Sue Keller

SUE KELLER  
Hearing Examiner