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PEGGY CHRISTIAN

v.

Docket No. 89-29-514

MINGO COUNTY BOARD OF EDUCATION

DECISION

Grievant, Peggy Christian, is employed by the Mingo County Board of Education (Board) as a Secretary III assigned to its central office. She initiated a grievance at Level I May 30, 1989, alleging she was misclassified and requesting reclassification to Director or Coordinator of Services as relief. Her supervisor, Superintendent of Schools Everett Conn, denied the grievance at that level and, following a hearing held August 18, 1989, at Level II, it was again denied. The Board waived Level III proceedings and appeal to Level IV was made August 31, 1989 where a hearing was held September 20, 1989. Proposed findings of fact and conclusions of law were submitted by November 15, 1989.

During the 1981-82 school term, Grievant received her present classification. At that time she was assigned to the Board's central office and generally worked in the accounts payable department, along with Ms. Dawsie Reed, Executive

Secretary, and Ms. Mary Richardson, Secretary III.¹ Grievant's immediate supervisors were then-Superintendent John Anderson and then-Fiscal Officer Everett Conn, although either Ms. Reed or Ms. Richardson generally directed her day-to-day activities. Ms. Richardson resigned at the end of the 1982-83 school term and her duties were distributed among grievant and other secretarial staff in the office. Ms. Reed retired in October 1986, and her duties were also distributed among the remaining staff, with grievant assuming most of the functions associated with executive secretary to Mr. Harry Cline who had succeeded Mr. Anderson as Superintendent. Upon Mr. Cline's resignation on June 30, 1989 and Mr. Conn's appointment to the Superintendent's position, grievant was relieved of the latter.

Grievant maintains the imposition of the extra duties since Ms. Richardson's retirement has amounted to a reclassification without increase in pay to a position of Director or Coordinator of Services defined in W.Va. Code §18A-4-8 as:

..personnel not defined as professional or professional educators in section one, article one of this chapter [§18A-1-1], who are assigned to direct a department or division.

The Board contends that grievant does not and has not been responsible for the direction of any identifiable department or division within the central office and is, therefore, properly

¹There is some dispute over Ms. Richardson's exact title but, for the purposes of the discussion herein, it need only be noted that she performed certain duties in accounts payable, which could arguably be considered supervisory in nature.

classified. The Board argues that, at best, grievant's accounts payable duties would entitle her to the classification of Accountant III² which §18A-4-8 defines as:

Personnel who are employed in the county board of education office to manage and supervise accounts payable and/or payroll procedures.

The record, particularly grievant's own testimony, supports the Board's position. She testified that, since Ms. Richardson retired, her duties have involved processing requisitions, invoices and payment checks for various bills associated with a number of programs or particular facets of the Board's financial operations. Those duties involve receipt and inspection of requisitions for supplies or services from various schools, preparation of purchase orders and reconciliation of the payment checks with actual bills submitted by providers of services and/or goods. Grievant has also performed these services when textbooks are ordered during the summer months and scheduled for delivery at the beginning of the school term. Her duties also include processing the same forms for costs incurred in the

²It should be noted that grievant makes no assertion that she should be reclassified to any position other than director or coordinator. This stance is apparently premised on the fact that reclassification to the Accountant III position would not result in a pay increase as it and grievant's current Secretary III position are both paid, pursuant to W.Va. Code §18A-4-8a, at pay grade F.

Also, while vaguely making reference to a promise made by Mr. Cline that her salary would be raised because of her assumption of executive secretary duties, grievant made no assertion that she should not be compensated for the difference between an executive secretary and Secretary III for the period of time that she performed those duties.

maintenance of school buses and the purchase of new buses. Other bills include travel vouchers for central office staff and utilities and maintenance costs at various schools.

In addition to the accounts payable functions, grievant reviews forms associated with Workers' Compensation claims by Board employees. Her main responsibility in this regard is to see that the forms are completed. If any employee's supervisor takes exception to a claim, grievant may communicate with doctors or the Board's counsel and appear at Workers' Compensation hearings. Typing and distribution of job postings, sorting mail and answering the telephone are some of her other tasks. Grievant stated at Level IV, as she did at Level II, that 95% of her time was spent on accounts payable duties. She also submitted Ms. Richardson's retirement letter in which she indicated she was resigning her "position as Director of Budget and Accounting" in support of the assertion that the position had existed previously.

On cross-examination, grievant conceded that other secretaries also performed some of the aforementioned duties and that at least two others are assigned as many of the accounts payable tasks as she. She also conceded that she had no supervisory authority over any employees and has never had the authority to approve payments for goods or services. While grievant stressed that she had taken on a great many responsibilities, she admitted that she had ample time to complete all the tasks assigned to her.

Mr. Conn testified that, during his tenure in various positions in the central office since 1977, there had never been a division or department of accounts payable but only a number of secretaries, whose primary duty was the processing of associated forms. He stated that these secretaries were always under the direct supervision of the person holding a fiscal officer or similar title. Mr. Conn also disputed grievant's account of how much time she devoted to the management of accounts and stated the distribution of that work was more uniform among the secretaries. Mr. Conn represented that no director of accounts payable was required as Mr. Tom Sammons is the current School Business Official/Treasurer and supervises those functions. Finally, he stated Ms. Richardson had never performed director's duties although she may have been given such a title before statutory provisions for particular classifications were enacted. Mr. Sammons' testimony generally corroborated that of Mr. Conn. He stated grievant had no supervisory functions or any authority greater than other secretaries whose activities he directed.

It was apparent from grievant's testimony she has acquired a certain expertise in that portion of her job relating to the processing of accounts and takes a great deal of pride in her efficiency in that regard, but it is clear that she has not and does not direct the operation of a division or department. Except for her testimony that she devotes 95% of her time to those functions, no evidence was offered which even tended to show the existence of an accounts payable division. Essentially, the testimony revealed there has never been even an identifiable

division which controls all aspects of the Board's finances as Superintendents, Assistant Superintendents and Fiscal Officers have all exercised, to some extent, the responsibility for such. Ms. Richardson's retirement letter is of little consequence inasmuch as grievant has failed to show the existence of an accounts payable division at any time. Moreover, if any such division was ever more than just a specialized distribution of secretarial duties, grievant did not show that she ever assumed responsibility for its direction. Her own description of her duties, along with that of Mr. Conn and Mr. Sammons, conforms with the job description of Secretary III contained in W.Va. Code §18A-4-8.

In addition to the foregoing, the following findings of fact and conclusions of law are incorporated herein.

FINDINGS OF FACT

1. Grievant has been employed in the Board's central office for approximately twelve (12) years as either Secretary I, II or III.

2. At various times during her tenure with the Board, grievant has been assigned to the Superintendent's office or other administrative divisions within the central office.


CONCLUSIONS OF LAW

1. It is incumbent upon a grievant to prove the allegations of his or her grievance by a preponderance of the evidence. Fox v. Summers County Board of Education, Docket No. 89-45-435 (December 29, 1989); Taylor v. Putnam County Board of Education, Docket No. 89-40-429 (September 21, 1989); Hanshaw v. McDowell County Board of Education, Docket No. 33-88-130 (August 19, 1988).

2. Grievant has not established that she has ever directed the operations of a department or division and thus entitled to the classification of Director or Coordinator of Services as that position is defined in W.Va. Code §18A-4-8.

Accordingly, the grievance is DENIED.

Either party may appeal this decision to the Circuit Court of Mingo County or the Circuit Court of Kanawha County and such appeal must be filed within thirty (30) days of receipt of this decision. W.Va. Code §18-29-7. Neither the West Virginia Education and State Employees Grievance Board nor any of its Hearing Examiners is a party to such appeal and should not be so named. Please advise this office of any intent to appeal so that the record can be prepared and transmitted to the appropriate Court.


JERRY A. WRIGHT
Chief Hearing Examiner

Dated: January 31, 1990