

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:)	
The University of the District of)	
Columbia Faculty Association/National)	PERB Case No. 85-A-01
Education Association. (on behalf of)	Opinion No. 98
Dr. Connie Ross))	
Petitioner,)	
and)	
The University of the District of)	
Columbia,)	
Respondent.)	
)	

DECISION AND ORDER

On September 12, 1984, the Arbitrator issued an "Opinion and Award" denying a grievance filed by the University of the District of Columbia Faculty Association/National Education Association (UDCFA) on behalf of Dr. Connie Ross. Dr. Ross had filed two (2) grievances against her Employer, the University of the District of Columbia (UDC) alleging that she was denied a permanent promotion to Associate Professor in the Secretarial Science Technology Department. The Arbitrator held that Dr. Ross' promotion opportunities had not been abridged by UDC although UDC had committed the error of not providing complete personnel files to the promotion committees. On September 26, 1984, UDCFA filed a Motion for Reconsideration of the Award with the Arbitrator. On October 5, 1984, the Arbitrator denied the Motion for Reconsideration and clarified his Award by stating, essentially, that UDC's error was harmless and had no direct adverse impact on Dr. Ross' promotional opportunities.

On October 2, 1984, UDCFA had filed an "Arbitration Review Request" with the Board contending the Arbitrator's Award is contrary to law and public policy because it fails to order the requested remedy of promotion, even though UDC was found to have violated its own promotion procedures. UDCFA also contends that the Award is deficient in that the Arbitrator failed to address at least seven (7) specific allegations contained in the grievances and is silent as to remedial future action to rectify UDC's violation of promotion procedures. It is noted that the later allegations are the same ones contained in the motion for reconsideration which was denied by the Arbitrator.

On October 26, 1984, UDC filed a response to the UDCFA's request for review asking the Board to deny the request because UDCFA has failed to establish sufficient grounds to satisfy the criteria for review as set forth in the CMPA. UDC further contends that the Award is supported by the evidence of record and is well within the scope of authority granted the Arbitrator by the Master Agreement.

Section 502(f) of the Comprehensive Merit Personnel Act (CMPA) (Codified as District of Columbia Code Section 1-605.2(6)) gives the Board the exclusive power to consider appeals from arbitration awards pursuant to a grievance procedure. However, "such awards may be reviewed only if the arbitrator was without, or exceeded his or her jurisdiction; the award on its face is contrary to law or public policy; or was procured by fraud, collusion or other similar and unlawful means."

In reviewing the Award and pleadings filed by the parties it appears that the Award addresses only the issues raised in the first of the two (2) grievances which is dated April 4, 1983. The second grievance, dated October 12, 1984, appears to raise the issue of UDC's compliance with Article 10(d)(5) of the Master Agreement. This matter was not addressed in either the Arbitrator's Award or his Reconsideration of the Award. Accordingly, the Board remands the Award to the Arbitrator for consideration of issues raised in both grievances but not addressed in the Award or its Reconsideration.

O R D E R

IT IS ORDERED THAT:

The Arbitration Award is remanded to the Arbitrator for consideration of issues raised in both grievances but not addressed in the Award.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

January 8, 1985