

COMMONWEALTH OF PENNSYLVANIA

PENNSYLVANIA HUMAN RELATIONS COMMISSION

DOLORES BARRACANO SCHMIDT :
:
Complainant :
:
vs : DOCKET NO. E-4703P
:
SLIPPERY ROCK STATE COLLEGE and :
:
ALBERT A. WATREL, PRESIDENT :
:
Respondents :

HISTORY OF THE CASE, FINDINGS OF FACT
CONCLUSIONS OF LAW, COMMISSIONS' DECISION and FINAL ORDER

HISTORY OF THE CASE

The Complainant is Dolores Barracano Schmidt, who resides at R.D. #3, Slippery Rock, Pennsylvania. On February 29, 1972, Complainant filed a complaint with the Pennsylvania Human Relations Commission against Slippery Rock State College and its president, Dr. Albert A. Watrel, alleging a violation of Section 5(a) of the Pennsylvania Human Relations Act, 43 P.S. 951 et seq., in that Respondents refused to place her in a full-time teaching position for the 1971-1972 academic year, although her appointment had been approved by the chairman of the English Department and the Dean of Liberal Arts, and hired a less qualified male. Further, Complainant alleged that Respondent requires different qualifications for men for appointment to the full-time position of assistant professor, than is required for her because of the Complainant's sex, female.

On May 2, 1972, Complainant filed an amended complaint wherein she further alleged she had been denied a contract for the 1972-1973 academic year because of the filing of her initial complaint and for providing information to the Commission during the investigation of other cases against Respondents.

An investigation of the amended complaint was made by representatives of the Pennsylvania Human Relations Commission, and a determination was made that there was probable cause to credit the allegations of the amended complaint. Attempts were made to effectuate an amicable settlement of the amended complaint by conciliation. However, such attempts were unsuccessful, and the Commission scheduled a public hearing for the presentation of the evidence in the case.

On August 16, 1972, subsequent to the notice of a public hearing, an answer to the complaint was filed by the Respondents wherein all allegations of the illegal acts were generally and specifically denied.

On Friday, August 25, 1972, a public hearing was convened at the Butler County Courthouse, Butler, Pennsylvania. The hearing was conducted by a hearing panel consisting of Commissioner Robert W. Goode, presiding; Commissioner Elizabeth M. Scott and Commissioner John P. Wisniewski.

The case in support of the amended complaint was presented by Mark A. Senick, Esquire, Regional Counsel for the Commission, who called the Complainant and one other witness to testify in support of the charge.

The case in defense was presented by Joseph J. Pass, Jr., Esquire, counsel for the Respondents, who called three (3) witnesses to testify for the defense. The hearing commissioners recommend, on the basis of the evidence presented at the public hearing, that the Commission find in favor of the Complainant as to all charges, and make the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Complainant is Dolores Barracano Schmidt, who resides at R.D. 3, Slippery Rock, Pennsylvania 16057.
2. Respondents are Slippery Rock State College and Albert A. Watrel, President, Slippery Rock, Pennsylvania 16057.
3. Complainant was employed by Respondent College in 1968, as an Assistant Professor in the English Department. She was employed in a part-time status at her own request, and said employment was renewed through the 1971-1972 academic year. In addition, Complainant was employed by Respondent College in 1965, on a full-time basis for a portion of a semester, and also taught full-time for the Summer sessions of 1966 and 1972.
4. In August, 1971, Complainant was scheduled to teach two Research Writing courses in the English Department, which courses were to begin in September, 1971, and such was indicated in the schedule of courses published by Respondent College (T-8).
5. Dr. Ronnalie Howard resigned during August, 1971, which left two American literature courses unstaffed for the coming semester (T-8).
6. Complainant made a request to Dr. Kopper, then chairman of the English Department, that she be permitted to teach the two American Literature courses (T-8).
7. Because Dr. Kopper indicated that the two Research Writing courses Complainant was scheduled to teach were important to the Department's program, Complainant offered to teach all four (4) courses, which would give her full-time status (T-8).
8. Dr. Kopper agreed to have Complainant teach full-time (T-8).
9. On September 1, 1971, before the semester was to begin, Dr. Eban Bass replaced Dr. Kopper as chairman of the English Department (T-9).
10. Dr. Bass agreed that Complainant could teach all four courses, and her name was identified in the registration roster as the instructor for those courses (T-9 and 29).

11. On September 10, 1971, Albert E. Schmittlein, Dean of the School of Humanities and Fine Arts, of which the English Department was a part, sent a letter to Complainant, indicating that Complainant should complete her terminal degree, meaning her Ph.D., before requesting full-time employment. At the bottom of the letter was a handwritten note by Dr. Schmittlein agreeing to support the recommendation for the first semester regarding Complainant (T-11, 94 and 95 and Commission's Exhibit A).
12. On the day before classes were to begin, Complainant had not yet received a contract for full-time employment. She was then told that she would be teaching only the two American Literature courses, and would continue on a part-time basis (T-9, 10 and 12).
13. The students assigned to the two Research Writing classes which Complainant was scheduled to teach, were reassigned to other classes (T-32,33, and 95).
14. Complainant applied for full-time employment for the Spring semester, 1972 (T-14).
15. William Hill was hired by Respondents as a part-time, temporary instructor for the Winter term, 1972. He taught two courses, Research Writing and American Literature. (T-104 through 106, 125 and 126, and Respondent's Exhibit 2)
16. Complainant's original complaint in this matter was filed on February 29, 1972, and served upon Respondents on March 14, 1972.
17. Complainant has not received a contract for the 1972-1973 academic year, either as a part-time or full-time employee, nor has Complainant received a termination notice. (T-18 and 19)
18. Complainant was graduated from Hunter College with a Bachelor of Arts Degree in English. She received the degree of Master of Arts in American Studies from the University of Pennsylvania. She has also completed all the course work necessary for the degree of Doctor of Philosophy at the University of Pennsylvania. (T-5)

19. Complainant's teaching experience includes instructor of English at the University of Nevada from 1957 to 1959; a half-time assistant in the English Department at Rutgers University in Camden from 1959 to 1960; Assistant Professor of English at Eastern Illinois University from 1960 to 1961; Assistant Professor of English at Mayville State College, North Dakota, from 1961 to 1962; and half-time Assistant Professor of English at Slippery Rock State College, from 1968 to 1972 (T-5 and 6).
20. Complainant's other work experience includes literature research and abstracter, Cornell University Medical School, 1952-1954; library research fellow, University of Pennsylvania, 1955-1957; research editor on the Whitman's Edition of Leaves of Grass, New York University Press, 1956-1957 (T-6).
21. Complainant has been active in various women's organizations on and about the Slippery Rock campus. She is advisor to the Association for Women's Rights, a student group; and a member of Slippery Rock Women's Lib, a group including faculty wives, faculty members, community women, and students. In addition, she is a contributor to the newspaper, The Hand That Rocks the Rock, published by the above-mentioned organizations. The newspaper has often been critical of Respondents' policies relating to women. Complainant's name appears on the masthead of the newspaper, which is circulated generally about Slippery Rock. (T-19 through 24)
22. Respondent College has been reducing the size of its English Department since 1968 from about 33 full-time faculty, or billets, to 23 billets. (T-90, 96 and 97, and 116 through 119)
23. For the Fall term of 1971, the English Department did not receive from Respondent sufficient billets to hire Complainant full-time, although a vacancy had occurred in the English Department one month before the beginning of the term (T-94, 195, 120 through 124 and 132 and 133)
24. In August, 1971, the English Department, as well as other Departments in the College of Arts and Humanities, determined to upgrade its full-time faculty by hiring only persons who held terminal degrees in their field. (T-98 through 102, and 124 and 125)

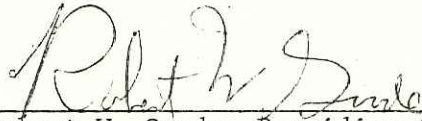
25. No new faculty person was hired in the English Department during the academic year, 1971-1972, except William Hill (T-104 through 107, and Respondents' Exhibit 2)
26. Mr. Hill was completing his degree at Auburn University and working on his dissertation for the Degree of Doctor of Philosophy. His area of speciality is American Literature, specifically Southern American Literature. (T-143 and Respondents' Exhibit 2)
27. Five new full-time faculty persons were hired in the English Department for the 1972-1973 academic year. Four of those persons hired had the degree of Doctor of Philosophy and one was nearing completion of his work for that degree. All were hired at the rank of Assistant Professor. (T-101-102 and Commission Exhibit F)
28. As of September 1, 1971, twenty (20) new persons were hired at Respondent College at the rank of Assistant Professor. Two of these persons were part-time, and both were female. All eighteen (18) persons hired full-time were male. Of these, only four held a Doctor of Philosophy degree. (T-63-65 and Commission's Exhibit D)
29. Nineteen (19) additional persons were hired at the rank of Assistant Professor on January 1, 1972. Seven of these persons held a Doctor of Philosophy degree. Of the total of nineteen, seven were women, two of whom held a Doctor of Philosophy degree (T-73-75 and Commission's Exhibit F).
30. Seven persons were promoted to the rank of Assistant Professor for the 1972-1973 academic year. None of these held a Doctor of Philosophy degree. (T-71-72 and Commission's Exhibit E)
31. Complainant was qualified to teach all the courses she requested for the Fall, 1971 semester, and the courses taught by William Hill for the Winter, 1972 term (T-125 and 126).

CONCLUSIONS OF LAW

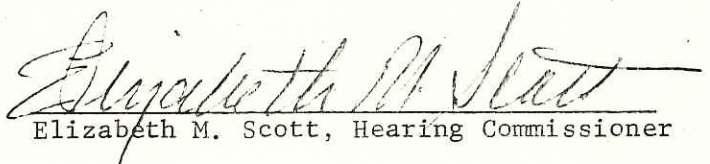
Upon all the evidence in the public hearing and in consideration of the foregoing Findings of Fact, the Pennsylvania Human Relations Commission makes the following Conclusions of Law:

1. At all times herein mentioned, the Pennsylvania Human Relations Commission had and still has jurisdiction over Complainant and Respondents and the subject matter of the complaint herein under the Pennsylvania Human Relations Act, 43 P.S. 951, et seq.
2. 43 P.S. 955 provides in part as follows: "It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational qualification. . . (a) for any employer, because of the race, color, religious creed, ancestry, age, sex or national origin of any individual, to refuse to hire or employ or to bar or discharge from employment such individual, or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment. . . (d) for any employer, employment agency or labor organization to discriminate in any manner against any individual because such individual has opposed any practice forbidden by this act, or because such individual has made a charge, testified or assisted, in any manner, in any investigation, proceeding or hearing under this act."
3. The Respondents' failure to hire Complainant at the rank of full-time Assistant Professor for the 1971-1972 academic year, and the failure to renew her contract for the 1972-1973 academic year is in violation of the Pennsylvania Human Relations Act, in that such actions were taken because of the sex of the Complainant, female, and in retaliation for her filing her initial complaint.

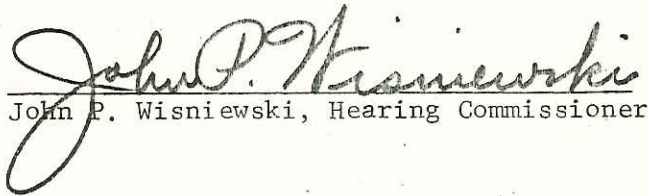
It is, therefore, recommended that the Commission enter an order against Respondents requiring them to remedy the effects of their unlawful actions.



Robert W. Goode, Presiding Commissioner



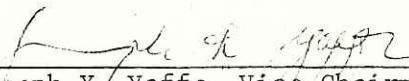
Elizabeth M. Scott, Hearing Commissioner



John P. Wisniewski, Hearing Commissioner


3. The total monetary amount of the instant award will bear interest beginning thirty (30) days from the date of this Order, if the Order has not been complied with by that time.
4. Respondents shall cease and desist from discriminating in hire, tenure, promotions, and any other incidents of employment in any manner whatsoever against any persons.

PENNSYLVANIA HUMAN RELATIONS COMMISSION



Joseph X. Yaffe, Vice Chairman

ATTEST:



Dr. Robert Johnson Smith, Secretary