

STATE OF ILLINOIS
CIVIL SERVICE COMMISSION

ILLINOIS STATE EMPLOYEES)
ASSOCIATION, LOCAL 2002)
)
Grievant,)
)
vs.)
)
CENTRAL MANAGEMENT SERVICES,)
)
Charged Party)

APPEAL FROM GRIEVANCE DENIAL

Now comes Grievant, Illinois State Employees Association, Local 2002, by its attorney, Kendra S. Doellman, and appeals the grievance denial of Charged Party, Central Management Services and states a cause of action as follows:

1. Illinois State Employees Association, Local 2002, hereinafter "ISEA", is a labor organization that primarily represents supervisory, managerial, and/or confidential employees of the State of Illinois.
2. Membership in ISEA is wholly voluntary and no collective bargaining agreements exist on behalf of the employees for whom the grievance was filed and remedy sought.
3. Since its inception, ISEA has represented employees, members, that are excluded by the Illinois Public Labor Relations Act, 5 ILCS 315, with regards to

grievances through the Central Management Grievance Procedure found in the Personnel Rules at 303.10 to 303.45.

4. Since in or about Fiscal Year 2004, various employees represented by ISEA have failed to receive the appropriate merit increases in rates of pay as specifically provided for under Central Management Services Personnel Rules and Code for the Fiscal Year of 2004 and the subsequent years.
5. State of Illinois employees generally receive the appropriate pay increases on the anniversary date of their initial employment.
6. Employees are affected at entirely different and separate times from one another as such pay increases are awarded and applied as of the anniversary date of individual employment.
7. In or about December 2005, ISEA began filing grievances on behalf of approximately one hundred and seventeen (117) affected employees.
8. In its grievances, ISEA cited several provisions of the Administrative Code, Central Management Services Rules, Pay Plan Sections, and the Central Management Services Personnel Code. (See Attached Cited Sections)
9. ISEA cited CMS Rules, Section 301.170 which states the following:

“The Pay Plan shall provide for uniform and equitable starting rates of pay, the time and manner in which subsequent changes of salary may be made, the rate each employee is to be paid, and for rates that are fair and reasonable

compensation for the type of employment and services rendered. The Pay Plan may also include other provisions not inconsistent with law to assist in the administration of good personnel practices for the State of Illinois.”

10. The CMS Rule cited in Paragraph 9 above, states that the pay should be equitable and it further goes on to state that the rates are to be fair and reasonable, however, these employees have been part of a group that is the sole group that has *not* received a merit increase in the past four (4) years. This is clearly a violation of the requirement that employees receive pay that is equitable, fair and reasonable.

11. ISEA cited CMS Rules, Section 302.790 which states the following:

a) “Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, or any other personnel transaction, because of...any other non-merit factor is prohibited except where such may be a bona fide job qualification.”

b) “Any applicant or employee who feels adversely affected in employment because of such discrimination shall have resort to the grievance procedure hereunder and may be joined in such procedure by the Affirmative Action Director or designee where necessary or appropriate.”

12. The CMS Rules cited in Paragraph 11 above states that there shall be no discrimination against any employee for non-merit factors. The employee-

grievants in this matter are a part of a group that has been largely discriminated against in such a manner since they have not received the appropriate and mandatory annual merit increases for the past four (4) years.

13. ISEA cited Pay Plan Section 310.20 which states the following:

- a) “It is the policy of the State of Illinois to provide fair and reasonable compensation to employees for services rendered.”
- b) “The policy and procedures expressed herein are controlling in matters of employee pay administration. It shall be the responsibility of each agency head:
 - 1) To submit promptly all proper and required personnel actions with justifications or other notices of changes affecting employee pay or pay status,
 - 2) To cause, within his/her agency, full compliance with all the provisions of this Part.”

14. The Pay Plan Section cited in Paragraph 13 above states in part (a) that the State of Illinois has a policy of providing *fair and reasonable* compensation to employees and goes on in part (b) to state that this policy and the procedures within the Pay Plan are *controlling*. It is apparent that not only are the grievant-employees in this matter being wholly discriminated against but this policy and the procedures for merit increases are *not* being followed as provided within this Pay Plan Section.

15. ISEA cited Pay Plan Section 310.410 which states, in pertinent, the following:

“The Merit Compensation System shall apply to all classes of positions designated below...” (See attached Pay Plan section for full list of positions)

16. The Pay Plan Section cited in Paragraph 15 above provides merit compensation for all employees listed within the Section. The employee-grievants fall within classifications as provided for in this Section of the Pay Plan. As such, they are required to receive increases per the Merit Compensation System. However, as the Merit Compensation System requires annual merit increases, and the employee-grievants have failed to receive such annual merit increases over the past four (4) years, this Section and all other Sections cited are being largely violated.

17. ISEA cited Pay Plan Section 310.420 which states the following:

“The principal objectives of the Merit Compensation System are:

- a) To provide for recognition of and reward for differences in individual employee performance.
- b) To provide standard methods and procedures for establishing and applying rates of pay.
- c) To insure internal equity and consistency within and between departments and agencies at all locations of the state.
- d) To establish and maintain fair and competitive salary ranges consistent with the economic interests of the State of Illinois.”

18. The Pay Plan Section cited in Paragraph 17 above defines the Merit

Compensation System principles to include recognition and reward for individual performance, a standard method and procedure for establishing and applying rates, insuring equity and consistency, and to establish and maintain *fair and competitive* salary ranges. This Section is clearly being violated as there has been no recognition or reward for individual performance (as there have been no increases), the standard methods and procedures are not being followed, the employees have no insurance of equity or consistency (with the exception consistent denials of merit increases), and finally the employee-grievants' salary ranges are clearly no longer fair and competitive. No pay increases, coupled with rising costs of living, equal unfair and uncompetitive salaries if there are no increases.

19. ISEA cited Pay Plan Section 310.430(a) which states the following:

“It shall be the responsibility of each agency head:

- 1) To cause, within the agency, full compliance with all provisions of the Merit Compensation System.
- 2) To submit promptly all proper and required personnel actions with justifications or other notices of changes affecting employee pay or pay status.”

20. The Pay Plan Section cited in Paragraph 19 above indicates that each agency has the responsibility to comply with the Merit Compensation System and to promptly provide all *proper and required* personnel actions with justifications of

changes affecting employee pay. It is abundantly clear that the agencies have failed to comply with the Merit Compensation increases, as argued above, and there have been no justifications for such failure provided. Furthermore, a justification for a large-scale denial of mandatory annual merit increases simply cannot and does not exist.

21. ISEA cited Pay Plan Section 310.430(b) which states the following:

“It shall be the responsibility of the Department of Central Management Services:

- 1) To develop procedures and techniques as required for the implementation and for the standardization of the application of the Merit Compensation System.
- 2) To develop and maintain classification standards and salary range rankings for all positions subject to the System.
- 3) To review and approve employees’ rates of pay and personnel changes for compliance with established policy and procedures.”

22. The Pay Plan Section cited in Paragraph 21 requires CMS to apply the Merit Compensation System procedures and techniques they long ago developed, and they are not.

23. ISEA cited Pay Plan Section 310.450 which states the following:

“a) An annual merit increase in an in-range salary adjustment for demonstrated performance.

b) Eligibility for an annual merit increase shall be determined by the following conditions:

1) Each employee will be eligible for a merit review after attaining 12 months creditable service. The employee's immediate supervisor shall prepare an Individual Development and Performance Evaluation form prior to the Performance Review Date, and discuss the results with the employee.

2) Should the Individual Development and Performance review result in the employee not being eligible for an annual merit increase due to provisions of Section 310.450(d), or should the employee's base rate bet at the maximum rate of pay of the salary range assigned to the employee's position, the employee will not be eligible for an annual merit increase until 12 months of additional creditable service has been accrued.

c) Based upon the results of the Individual Developmental and Performance Evaluation, the employees' immediate supervisor shall determine whether the employee's performance warrants or does not warrant an annual merit increase.

d) The among of an annual merit increase recommendation shall be determined by use of the Merit Increase Guidechart of Section 310.540 if the employee's Individual Development and Performance Evaluations has on the Performance Review Date been evaluation at a Category 3 or higher level. An employee whose Individual Developmental and Performance Evaluation has on the Performance Review Date been evaluated at Category 4 shall not receive an increase in the present base salary. However, in no event is the resulting salary to be lower than

the minimum or higher than the maximum rate of pay of the respective salary range assigned to the employee's position.

24. The Pay Plan Section cited in Paragraph 23 above establishes the evaluation system and the subsequent annual merit increase to be applied based on evaluation outcomes. However, while the employee-grievants and the group they are within, receive merit evaluations, they are not receiving the mandatory, subsequent merit increases that go along with the evaluations. Unless CMS and the various agencies are attempting to claim cross-classification decrease in performance by all employees that have been affected, an impossibility, the annual merit increases should have been awarded each year, as in the past, upon merit evaluation.

25. ISEA cited 20 ILCS 415/2 which states the following:

“The purpose of the Personnel Code is to establish for the government of the State of Illinois a system of personnel administration under the Governor, based on merit principles and scientific methods.”

26. The Statute cited in Paragraph 25 above states that, under the Governor's personnel administration there must be a system based on merit principles and scientific methods. Again, the merit principles are being ignored entirely, and the merit evaluations are being ignored.

27. ISEA cited 20 ILCS 415/4(a) which states the following:

“There are hereby created three separate areas of personnel jurisdiction of the Department of Central Management Services, as follows:

(1) Jurisdiction A, with respect to the classification and compensation of positions in the State service.

(2) Jurisdiction B, with respect to the positions in the State service to which persons must hold appointments on a basis of merit and fitness.

(3) Jurisdiction C, with respect to conditions of employment in State service.”

28. The Statute cited in Paragraph 27 above clearly establishes the merit

compensation level of employees and that level includes the employee-grievants cited in this case.

29. ISEA cited 20 ILCS 415/8(b) which states the following:

“a) For positions in the State service subject to the jurisdiction of the Department of Central Management Services with respect to selection and tenure on the basis of merit and fitness, those matters specified in this Section and Sections 8b.1 through 8b.17.

b) Application, testing and hiring procedures for all State employment vacancies for positions not exempt under Section 4c shall be reduced to writing. The written procedures shall be provided to each State agency and university for posting and public inspections at each agency’s office and each university’s placement office.

The Director shall also annually prepare and distribute a listing of entry level non-professional and professional positions that are most utilized by State agencies under the jurisdiction of the Governor. The position listings shall identify the entry level positions, localities of usage, description of position duties and responsibilities, salary ranges, eligibility requirements and test scheduling instructions. The position listings shall further identify special linguistic skills that may be required for any of the positions.

30. The Statute cited in Paragraph 29 above is further existence of an intention for a group of mid-management “merit” based employees to be rewarded based on merit, who in this case are actually being discriminated against, and there is a clear violation of these intentions.
31. Central Management Services continually denied the grievances, Steps 1 through 3 of the Grievance Procedure, and on or about February 21, 2006, Paul J. Campbell, Acting Director of Central Management Services sent a letter to ISEA denying the grievance and removed the grievance from consideration at the 4th level- arbitration.
32. The denial of the grievances cited two main reasons for refusing to advance the grievance to arbitration. One issue cited was untimeliness as the grievance was filed for the past three years, including the current Fiscal Year, and grievances are generally required to be filed within five (5) scheduled work days after learning of the circumstances giving rise to the grievance.

33. ISEA advances the argument that circumstances that are ongoing and never rectified abolish the timeline for filing grievances. As the employees on whose behalf the grievances were filed are affected at all different time and as the failure to implement the required increases has occurred from Fiscal Year 2004 to date, the grievance is ongoing and should be upheld and submitted to Step 4, arbitration.
34. The denial of the grievance by Central Management Services also relied upon an Executive Order signed by the Governor in 2003. The Acting Director stated in his letter that such merit increases were suspended.
35. ISEA advances the argument that the only provision regarding merit increases that had been suspended was found under Pay Plan Section 310.455 which refers specifically to intermittent, rather than annual, merit pay increases.
36. As it appears that *annual* merit increases have not been suspended, the applicable Sections of the Central Management Services Personnel Rules and Personnel Code, as well as pertinent portions of Illinois Compiled Statutes as cited above, should apply to the individual grievants and as a result the grievants should have received annual merit increases for Fiscal Year 2004 and Fiscal Year 2005.

WHEREFORE, Grievant, Illinois State Employees Association, Local 2002, requests that the Civil Service Commission uphold the grievance and require Charged Party, Central Management Services to abide by the Administrative Code, Central Management Services Rules, Pay Plan Sections, and Central Management Services Personnel Code. The Grievant requests a hearing before the Civil Service Commission for the issues cited in this complaint and appeal.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served upon each of the addressees hereinafter set forth by enclosing same in an envelope plainly addressed to each of the said addressees, with postage fully prepaid, and sending same **First Class Mail**, depositing same in a U.S. Mail Box in Springfield, Illinois on this _____ day of _____, 2006.

State of Illinois
CIVIL SERVICE COMMISSION
425 ½ South Fourth Street
Springfield, Illinois 62701

and that the original was filed with the State of Illinois, Civil Service Commission.

Kendra S. Doellman
Attorney for Grievant