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Arbitrator slams SSA for discrimination

The Social Security Administration has been ordered to pay a total of \$100,000 in damages to a Service Representative who was given a 90-day suspension last year.

Arbitrator Ed Bankston also told the agency to remove that discipline from the employee's record, awarding back pay plus interest. The SR's lawyer, Patti McGowan, will also receive attorney fees and a Union Representative was awarded travel and per diem costs because he testified at the hearing.

"With reckless indifference the agency has flagrantly violated the National Agreement and has trampled upon the rights of this (employee) and of the Union," Bankston wrote in his decision. "The 90-day suspension of the (SR) was arbitrary, capricious and a serious abuse of managerial discretion."

He awarded the Service Rep (who will not be identified in this story) \$50,000 "due to the agency's unlawful discrimination in violation of... the Civil Rights Act of 1991."

The employee was also given \$50,000 for what the arbitrator called "the agency's altogether gross and repugnant rendition of the matter at hand, and in an effort to deter such reckless, blameworthy behavior in the future."

The SR works in an Arkansas office and was disciplined after approving three Critical Payments that were initiated by another employee who was later convicted of theft. Three other people in the same office also

approved the payments, but none of them knew about the scheme beforehand.

"They were just doing their jobs," attorney McGowan told UNITY.

"What's especially troubling about the agency's actions," she continued, "is that two of the employees were African American, one was Hispanic, and one was white. The African American employees were given 90 and 120 day suspensions and the Hispanic employee was terminated.

"The white employee was never disciplined, even though she issued \$4000 in Critical Payments."

That woman was also later promoted to Area Work Incentive Coordinator.

"There is nothing on this record to dispel the notion of agency discrimination," Bankston stated.

McGowan will represent the other employees involved in this issue and Bankston has already been chosen to hear their cases.

The arbitrator also criticized the actions of Little Rock District Manager Mike Lienhart, stating he "fails to understand the nature of employee discipline... He also fails to comprehend the nature of his managerial responsibilities to his employees..."

Another management official who was involved in disciplining the employees was Rebecca Crosland, who has since been promoted to District Manager of the SSA office in Conway, Arkansas.

Union fights pay freeze attempt

AFGE recently defeated several attempts to eliminate the 2011 pay raise for federal employees.

The Union is asking its members to stay vigilant as a number of Congressional leaders have vowed to try again. Senators John McCain (R-Ariz.) and Tom Coburn (R-Okla.) offered an amendment to the emergency supplemental spending bill that would have frozen federal employees' 2011 pay.

House Republicans followed suit when Rep. Michelle Bachmann (R-Minn.) offered a similar amendment during debate over the Defense Authorization bill. AFGE quickly reached out to other members, who voted down both proposals.

Another amendment, later offered by Senator John Thune (R-South Dakota), was also defeated. During the debate on that proposal, Senator Ted Kaufman (D-Delaware) accused Republicans of using incorrect information about federal pay.

"Over the years," he said, "I've witnessed countless acts of courage, devotion to country and real sacrifice" by federal workers.

"I have also seen and heard such disheartening and baseless attacks against those who choose to serve. (This amendment) is just the latest assault," Kaufman believes.

Union targets FCIP hiring authority

Management officials in the Social Security Administration may soon have to find another way to hire their friends and relatives.

President Obama recently ordered the Office of Management and Budget (OMB) to evaluate and provide recommendations about the Federal Career Intern Program (FCIP), which many Union leaders believe has been widely misused by SSA managers and supervisors.

In the July, 2009 edition of UNITY, it was pointed out that the son of Milwaukee Downtown District Manager Mark Kulinski and the nephew of Seattle Area Director Steve Dymale were brought into the agency under FCIP.

"Both Kulinski and (Mark) Fansler were not only FCIP hires but they were quickly selected at the first opportunity to higher graded positions instead of highly qualified veteran employees not related to management," wrote Witold Skwierczynski, a member of the AFGE General Committee and President of Council 220, in a letter to SSA Commissioner Michael Astrue.

Skwierczynski also stated that "FCIP clearly discriminates against veterans yet you persist in using it as the primary mechanism for hiring new employees... To use such a discriminatory hiring mechanism during wartime is unfathomable."

President Obama's recent directive did not end FCIP, but AFGE and other federal Unions hope his efforts toward Government wide reform will quickly bring its demise.

"Numerous agencies have been using the FCIP almost exclusively for new hires, evading competitive procedures and veterans' preference in the process," AFGE stated in a news release. "While the Obama administration has committed to evaluate the use of the FCIP, there

either repealed or vastly scaled back."

J. David Cox, Sr., National Secretary-Treasurer of the AFL-CIO, recently testified before the Senate Committee on Homeland Security and Governmental Affairs about the program.

'To use such a discriminatory hiring mechanism during wartime is unfathomable'

Witold Skwierczynski

is already ample evidence that the FCIP is on the verge of replacing the competitive service.

"If the hiring reforms the administration has presented are to have any relevance, the FCIP must be

"The FCIP," he believes, "now represents the unrestricted use of a hiring authority that's extremely subjective, and grants managers a degree of discretion that should not exist in the federal government.

"Further, managers have total control over newly hired employees whose tenure is characterized by the absence of procedural due process protections, such as adverse action appeal rights, and a probationary period that is double the length of new employees hired under competitive processes."

Pavilion naming rights questioned

There's an old expression: "Self praise stinks...but if it's the only kind you can get...take it!"

That may have been on the minds of the management staff at the Fort Smith, Arkansas Social Security Office when a sign was recently installed outside the new building, near the employee break area.

It read: "Mike E. Lyons Pavilion."

Lyons is the long-time District Manager in Fort Smith. He was also Acting Area Director (AD) for a time.

It's believed Assistant District Manager Eve Stockton paid for the sign and had it put up. After it came to the attention of Billye Hill, the Deputy Regional Commissioner

in Dallas, Stockton sent a message to the staff in Fort Smith:

"As you may or may not know yet, we have received a communication suggesting Mike's pavilion sign may have to come down. In order to avoid trouble, Mike took the sign down. I do not agree with this action..."

"This is, honestly, one of the dumbest things I have EVER heard of in my 30+ years with the agency," one member of the bargaining unit wrote to other employees. "How can there be so much lack of common sense between TWO management officials???? And Mike was AD for awhile. Talk about lack of judgment..."