

P.E.R.C. NO. 88-152

STATE OF NEW JERSEY  
MERIT SYSTEM BOARD  
AND  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

MARY GRACE LAWSON  
CSV 8363-87  
CO-H-88-91

JOINT ORDER

CONSOLIDATION AND  
PREDOMINANT INTEREST  
DETERMINATION

SYNOPSIS

The Public Employment Relations Commission, in a joint order with the Merit System Board, finds that an unfair practice charge should be consolidated with a contested removal case and that the Commission should first decide whether the employee's protected activity was a substantial or motivating factor in her removal and then the Merit System Board will then determine whether her removal was for legitimate business reasons or was otherwise warranted under merit system law.

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: ISSUED: JUNE 23, 1988

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Mary Grace Lawson, Senior Mail Clerk, Ramapo State College, State Department of Higher Education, was removed effective September 3, 1987, on charges. Ms. Lawson requested a hearing and the Board transmitted the matter to the Office of Administrative Law for determination as a contested case. In addition, the Communications Workers of America (CWA) filed an unfair practice charge with the Public Employment Relations Commission (PERC), alleging that disciplinary actions were imposed on Ms. Lawson in retaliation for union activity. At the Office of Administrative Law, the appellant moved to consolidate these matters for hearing.

The Administrative Law Judge concluded that the matters should be consolidated since both matters arise out of appellant's termination. He further determined that predominant interest should repose in the Merit System Board.

Having considered the record and the Administrative Law Judge's initial order, and having made an independent evaluation of the record, the Merit System Board at its meeting on June 21, 1988 and the Chairman of the Public Employment Relations Commission on *June 23*, 1988, made the following determination in this matter.

ORDER

The Merit System Board and the Public Employment Relations Commission ORDER that the above matters be consolidated for hearing; and it is

FURTHER ORDERED that the Merit System Board and the Public Employment Relations Commission have agreed to the following procedures, and it is

FURTHER ORDERED that PERC will make the initial decision whether Lawson engaged in activity protected under the New Jersey Employer-Employee Relations Act and whether that activity, if protected, was a substantial or motivating factor in her removal; and it is

FURTHER ORDERED that the Merit System Board will then determine whether her removal was for legitimate business reasons and was otherwise warranted under merit system law; and it is

FURTHER ORDERED that the matter then be returned to PERC for its consideration of specialized remedial relief under its Act.

DECISION RENDERED BY THE  
MERIT SYSTEM BOARD ON  
JUNE 21, 1988

*Eugene J. McCaffrey, Sr.*  
Eugene J. McCaffrey, Sr.  
Commissioner  
Department of Personnel

DECISION RENDERED BY THE CHAIRMAN  
OF THE PUBLIC EMPLOYMENT RELATIONS  
COMMISSION ON JUNE 23 , 1988

*James W. Mastriani*  
James W. Mastriani  
Chairman  
Public Employment Relations Commission