

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

CHANDRAMA P. MISHRA)	
)	
Complainant,)	CASE 20781-U-06-5293
)	
vs.)	DECISION 9772 - PSRA
)	
UNIVERSITY OF WASHINGTON,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
Respondent.)	AND ORDER
_____)	

Chandrama P. Mishra, pro se.

Rob McKenna, Washington State Attorney General, by
Jeffrey W. Davis, Assistant Attorney General, for the
University of Washington.

On November 29, 2006, Chandrama P. Mishra filed an unfair labor practice complaint with the Commission under Chapter 391-45 WAC. The complaint alleged that the University of Washington (employer) committed an unfair labor practice within the meaning of Chapter 41.80 RCW. On December 14, 2006, the Commission issued a deficiency notice. Mishra filed an amended complaint on December 26, 2006. On January 3, 2007, the Commission issued a preliminary ruling, finding causes of action to exist against the employer for interference with Mishra's collective bargaining rights in violation of 41.80.110(1)(a) and discrimination in reprisal for protected union activities in violation of RCW 41.80.110(1)(c). The employer filed an answer on January 24, 2007. The Commission assigned Examiner Lisa A. Hartrich to conduct further proceedings.

On April 2, 2007, the employer filed a motion to dismiss, claiming that Mishra was not an employee under the Commission's jurisdiction

during the relevant time period. On April 30, 2007, Mishra responded to the employer's motion. Mishra asserts that the employer wrongfully transferred him from a classified service position to a "civil service exempt" position in 2002, effectively removing him from the jurisdiction of this Commission. The employer filed a reply to Mishra's response on May 4, 2007.

Based on the undisputed fact that Mishra held a civil service exempt position during the relevant time period, the Examiner grants summary judgment and dismisses further proceedings in this case under WAC 10-08-135.

ISSUE PRESENTED

Does a question of material fact exist regarding Chandrama Mishra's employment status at the time relevant to this complaint?

ANALYSIS

Summary Judgment

WAC 10-08-135 provides for summary judgment where there is no genuine issue of material fact, and where the moving party is entitled to judgment as a matter of law. The Commission issues summary judgments only where a defect or defense is so conclusive that no hearing is necessary. *Renton School District*, Decision 3121 (PECB, 1989).

Commission Jurisdiction

The Commission has jurisdiction over the University of Washington in matters arising out of the collective bargaining relationship as described in RCW 41.80. That statute defines an "employee" as an

employee covered by RCW 41.06, with certain exceptions. Chapter 41.06 RCW is the state civil service law.

Prior to 2002, Mishra held a classified staff position, which was covered by the state civil service law. During that time, he was represented by a collective bargaining agent, subject to Commission jurisdiction. However, in 2002, Mishra was appointed to a professional staff position, which is exempt from Commission jurisdiction under RCW 41.06.070(2)(a).

Mishra does not dispute the fact that he was an exempt employee at the time he was terminated. However, he asserts that he was wrongfully removed from a classified staff position in 2002. Even if that were true, the time for appealing that decision has long passed.¹

CONCLUSION

Mishra failed to raise an issue of material fact regarding the Commission's jurisdiction over this matter. Therefore, the case is dismissed.

FINDINGS OF FACT

1. The University of Washington is an institution of higher education within the meaning of RCW 41.80.005(10).
2. At the time of the events that were the basis for this complaint, Chandrama Mishra was a Safety Officer at the

¹ In 2002, at the time Mishra was reclassified, an employee whose position had been changed to exempt status had the right to appeal to the Personnel Appeals Board under RCW 41.64.010.

Harborview Medical Center, University of Washington. This position is exempt from civil service.

3. On September 22, 2006, Mishra was terminated from the Safety Officer position.
4. RCW 41.80 does not apply to state employees who are exempt from civil service under RCW 41.06.

CONCLUSIONS OF LAW

1. The complainant, Chandrama Mishra, was not an "employee" within the meaning of RCW 41.80.005 at the time of the actions that were the basis for this complaint.
2. The Public Employment Relations Commission does not have jurisdiction over this matter.

ORDER

This complaint charging an unfair labor practice violation, filed in case 20781-U-06-5293, is DISMISSED as a matter of law.

ISSUED at Olympia, Washington, this 27th day of June, 2007.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



LISA A. HARTRICH, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

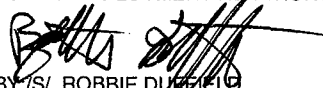
112 HENRY STREET NE
P. O. BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
PAMELA G. BRADBURN, COMMISSIONER
DOUGLAS G. MOONEY, COMMISSIONER
CATHLEEN CALLAHAN, EXECUTIVE DIRECTOR

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PUBLIC EMPLOYMENT RELATIONS COMMISSION


BY: /S/ ROBBIE DUFFIELD

CASE NUMBER: 20781-U-06-05293 FILED: 11/29/2006 FILED BY: PARTY 2
DISPUTE: ER MULTIPLE ULP
BAR UNIT: ALL EMPLOYEES
DETAILS: Harborview Medical Center
COMMENTS:

EMPLOYER: UNIVERSITY OF WASHINGTON
ATTN: LOU PISANO
1320 NE CAMPUS PKWAY STE 302
PO BOX 354555
SEATTLE, WA 98105-6207
Ph1: 206-616-0885 Ph2: 206-543-6236

REP BY: DAVID JAFFE
UNIVERSITY OF WASHINGTON
325 9TH AVE
SEATTLE, WA 98104
Ph1: 206-731-3036

REP BY: JEFFREY W DAVIS
OFFICE OF THE ATTORNEY GENERAL
101 GERBERDING HALL
BOX 351260
SEATTLE, WA 98195-1260
Ph1: 206-543-4150

PARTY 2: CHANDRAMA P MISHRA
ATTN:
2014 E ALDER ST STE 2
SEATTLE, WA 98122
Ph1: 206-328-8861

REP BY: EDWARD YOUNGLOVE
PARR YOUNGLOVE LYMAN COKER
1800 COOPER PT RD SW BLDG 16
PO BOX 7846
OLYMPIA, WA 98507-7846
Ph1: 360-357-7791