State Seeks to Prevent Review of Employe Merit Increase Denials

The State of Oregon is attempting to prevent the Public Employe Relations Board from reviewing employe appeals involving denial of merit pay raises.

It has appealed to the Court of Appeals a recent PERB decision that the State Library acted arbitrarily when it denied a merit pay raise to Edwin Pomranka.

State attorneys filed the appeal despite a recent statement to a subcommittee of the Emergency Board by Cleighton Penwell, director of the Executive Department, that the rights of employes regarding denial of merit pay increases were protected by their right to appeal such action to the PERB (see story on page 1).

Last fall the State Library adopted a plan for allocation of merit pay increases to meet the 85 per cent limitation imposed by the 1971 legislature. The plan divided the library into five divisions and provided for ranking employes by division.

Pomranka was in the Technical Services Division. After evaluating his performance, he was given a merit rating score of 87 and denied a pay raise. He objected and asked OSEA for representation.

An investigation by Field Representative Richard A. Leith revealed that other employes in the library with scores below 87 had been given merit pay raises. In addition, at least one other employe in the Technical Services Division with a score of less than 87 got an increase.

After the library refused OSEA's request that Pomranka be given a merit pay raise, staff attorney John S. Irvin filed a petition for review with the PERB.

Following a hearing on the matter, the board ruled that the denial was arbitrary because it violated the library's own system of determining merit pay raises on the basis of merit rating scores within its divisions.

In its appeal of the PERB decision, the state contends that the board has no jurisdiction to review the denial of a merit pay raise. It argues that granting or denying a merit pay raise is up to the discretion of each agency, and is not controlled by an employe's merit rating score. The appeal also claims the board's order is not valid because it does not compel the library to do anything specific.

Irvin contends, on behalf of Pomranka and OSEA, that denial of a merit pay increase is a personnel action which the board, by law, has power to review. He also claims that merit pay increases must be based on merit, measured by a merit rating, and not on agency discretion. The board is not required, on a review of this type of case, to order the library to do anything specific, Irvin argues.

Since the PERB was created by the 1969 legislature only three of its decisions have been appealed to the Court of Appeals. In two cases the board was reversed and in one the board was upheld. In all three, however, the court ruled against the employe.

OSEA's Representation of Pen Employes Challenged by Unions

Two unions—one affiliated with the AFL-CIO and one independent—have challenged OSEA as the collective bargaining representative of about 400 employes who work at the Oregon State Penitentiary.

Both the American Federation of State, County and Municipal Employes (AFL-CIO) and the Teamsters unions have filed petitions with the Public Employe Relations Board asking for a representation election.

OSEA has represented employes in the agency since 1966. Earlier this year the Association renegotiated its collective bargaining contract with the agency.

All three organizations will appear on the ballot. In addition, employes will have the option of voting for no representation.

According to PERB rules, one of the four choices must get a majority of the votes cast. If that doesn't happen, a runoff election will be held between the two choices getting the most votes

Shortly before the board was due to schedule an election, a petition signed by six members of the Oregon Institutional Education Association was filed with the PERB. It asks that the following classifications be excluded from the bargaining unit at the penitentiary:

Institution teacher 1 and 2, institution principal, vocational instructor and vocational training supervisor. There are about 13 employes in those five classifications who work at the agency.

Executive Secretary Melvin H. Cleveland said the board will investigate the petition. "Then a couple of things could happen," he said. "If all parties and I agree that the group should be excluded, we could hold the election without them. However, if after investigation of the petition there is any question about the matter we will hold a hearing."

That means the representation election could be held right away, he said, or it might be delayed for several weeks.

OSEA Will Survey Agencies To Learn Effect of Merit Pay Limit

Recent comments by Executive Department Director Cleighton Penwell that the limitation on state employe merit pay raises is working well has prompted an OSEA survey of all state agencies.

Executive Secretary Thomas C. Enright criticized Penwell for his remarks, which were made to a subcommittee of the Emergency Board.

Enright said the effect of the merit pay limitation law passed by the 1971 legislature has been "devastating" to the morale of state employes. He told Penwell that OSEA would "do everything it can to take to the members of the legislature and the public the truth about the damage to state service that has been done by the negative approach in the merit pay limitation."

The survey asks state administrators the following questions about the limitation: "Has the merit increase limitation had an effect on employe motivation?" "What effect have you seen on employe morale as a result of the merit increase limitation?"

It also asks agency heads questions about the Personnel Division's new performance evaluation system: "Can the new system, in your opinion, be utilized to make objective merit pay decisions?" "What effect have you seen on employe morale as a result of the new performance evaluation system?"

"It is not OSEA's intention to place any administrator in an embarrassing position, nor is it our intention to quote individuals," Assistant Executive Secretary Everett B. Stiles said in a letter to state agencies. He said results of the survey will form the basis of a report to the 1973 legislature on the merit pay limitation law.

Task Force Named To Study Bargaining

Gov. Tom McCall has appointed a three-member Task Force on Collective Bargaining. James Redden, chairman of the Public Employe Relations Board, was named chairman of the group.

The other two members are Leroy R. Smith, Portland Labor arbitrator, and Dr. Paul L. Kleinsorge, professor of economics at the University of Oregon.

McCall asked the task force to develop "recommendations for solving conflicts in public employe collective bargaining laws and customs" in time to be submitted to the 1973 legislature.