

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CE-01-114
)	
LARRY B. ANGEL,)	DECISION NO. 281
)	
Complainant,)	FINDINGS OF FACT, CONCLU-
)	SIONS OF LAW AND ORDER
and)	
)	
FRANK F. FASI, Mayor, City)	
and County of Honolulu; and)	
DEPARTMENT OF PARKS AND)	
RECREATION, City and County)	
of Honolulu,)	
)	
Respondents.)	
)	

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

On December 16, 1987, Complainant LARRY B. ANGEL filed a prohibited practice complaint with the Hawaii Labor Relations Board [hereinafter referred to as Board]. Complainant alleged that Respondents FRANK F. FASI, Mayor, City and County of Honolulu, and the DEPARTMENT OF PARKS AND RECREATION, City and County of Honolulu [hereinafter referred to as Department] committed prohibited practices by failing to promote Complainant to a supervisory position from the working foreman position he currently holds in the Department.

FINDINGS OF FACT

Complainant is an employee, as defined in Section 89-2, Hawaii Revised Statutes [hereinafter referred to as HRS], in bargaining unit 1, as defined in Section 89-6(a)(1), HRS.

Respondent FASI is a public employer, as defined in Section 89-2, HRS.

Upon the retirement of Kenneth Morikawa, Lubrication Supervisor, F-1, in 1978, his position was reallocated to a Lead Lubrication Worker, WF-5. Transcript [hereinafter referred to as Tr.], p. 8. The downward reallocation was based upon a departmental reorganization where the lubrication unit was abolished and incorporated into the automotive repair unit. Respondents' Exhibits 1 through 5. Walter Ozawa, Department Deputy Director, indicated that the position was reallocated because it was felt that it was more cost effective in terms of efficiency and organization to have a position that could participate in the work as well as supervise. It was felt that the Department needed a position that could do both. Tr., p. 14. Complainant was appointed to the position in 1979.

In 1982, a classification appeal was apparently filed with the Civil Service Commission. ANGEL was represented by Bob Chang of United Public Workers, ANGEL's union representative. The appeal was denied based upon a desk audit conducted by the Department of Civil Service. Tr., pp. 24 and 43.

Thereafter, in 1984, the position was again reviewed by the Department of Civil Service, and the position was reallocated from a Lead Lubrication Worker, WF-5 to a WF-6, on August 29, 1985. Tr., pp. 24-25.

ANGEL also indicated that he was in school in 1985, and a person in the lawnmower shop was promoted to an F-1 position. He felt this was unfair because he was the senior working foreman

since 1979 and talked to his supervisor about this. Tr., p. 10. ANGEL indicates that he applied for a Groundskeeper Supervisor position in 1987. Tr., pp. 37-38. ANGEL admitted that the Groundskeeper Supervisor position was the only supervisory position that he has applied for. Tr., p. 38.

CONCLUSIONS OF LAW

In the course of the hearing, Complainant brought to the Board's attention perceived inequities in promotion practices and compensation between working foremen and supervisors in the Department. He mentioned in passing various instances where employees in classifications lower than his were promoted to supervisory positions bypassing Complainant and other working foremen.

Complainant testified that in 1979, he was demoted to a working foreman position. Apparently, he characterizes his situation as a demotion in light of the fact that his predecessor, Kenneth Morikawa, in the Lubrication Supervisor position, was a full-time supervisor rather than a working supervisor.

The Board concludes, however, that Complainant was not demoted but rather, as was apparent in the hearing, had his position reclassified from a full supervisor to a working supervisor position. The reallocation was done upon Morikawa's retirement and not in contemplation of Complainant's succession to the position. Deputy Director Ozawa testified that there was a conclusion made that it would be cost efficient to have a working

supervisor rather than a full supervisor in the position.
The Board finds nothing improper to disturb this rationale.

Moreover, under Subsection 89-9(d), HRS, matters of classification and reclassification are excluded from negotiations and, therefore, cannot form the basis for prohibited practice complaints. Hence, we find no violation of Chapter 89, HRS, as alleged.

In addition, Complainant's allegations regarding an improper promotion is not properly before this Board. It is clear that ANGEL never applied for the promotion which the lawnmower shop employee received. Thus, he has no actionable complaint based upon that incident which would be time-barred by the 90-day statute of limitations contained in Section 377-9, HRS.

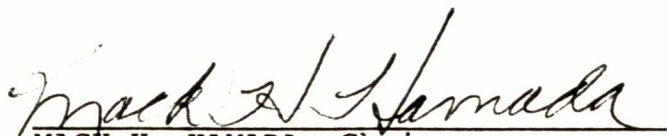
In reviewing the additional allegations of the Particularization of the Prohibited Practice Complaint filed with this Board on April 14, 1988, we find no other violations of Chapter 89, HRS, proven by the record in this case.

ORDER

For reasons above-stated, Complainant's prohibited practice complaint is dismissed.

DATED: Honolulu, Hawaii, August 15, 1988.

HAWAII LABOR RELATIONS BOARD


MACK H. HAMADA, Chairperson

LARRY B. ANGEL vs. FRANK F. FASI, Mayor of the City and County
of Honolulu and DEPARTMENT OF PARKS AND RECREATION, City and
County of Honolulu
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JAMES R. CARRAS, Board Member


GERALD K. MACHIDA, Board Member

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