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CIVIL SERVICE EMPLOYES—THOSE WHO HAVE BEEN REASSIGNED, PROMOTED OR DEMOTED—WITHIN NINETY DAYS PRIOR TO JULY 1—INELIGIBLE FOR AUTOMATIC SALARY INCREASE PROVIDED BY SECTION 143.10 (I) RC, AMENDED BY HB 484, 100 GA, 125 OL 546, 574.

SYLLABUS:

Under the provisions of Section 143.10 (I), Revised Code, as amended by House Bill No. 484 of the 100th General Assembly, 125 O. L. 546, 574, employes who have been reassigned, promoted or demoted within ninety days prior to July 1 are ineligible for the automatic salary increase provided by said section.

Columbus, Ohio, August 13, 1954

Hon. Carl W. Smith, Chairman, Civil Service Commission
Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"Section 143.10 (I) of the Revised Code of Ohio reads in part as follows:

'Beginning July 1, following his employment, each employee who has completed at least ninety days of service in any position, office or employment and who is below the maximum salary step in the pay range to which his position, office or employment is assigned, shall receive an automatic salary adjustment equivalent to the next higher step within the pay range for his class or grade.'

"It appears clear that an employee must have completed at least ninety days service prior to July 1, in order to qualify for such salary adjustment. However, there are instances in which employees who qualify, in so far as ninety days service is concerned, have had their position reclassified or have been promoted or possibly demoted to other positions during the ninety day period immediately preceding July 1 of the current year.

"Will you please advise this Commission whether or not employees who have been so reassigned, promoted, or demoted within the last ninety days prior to July 1, are entitled to the

salary step adjustment if their length and quality of service otherwise qualify them for such increase."

The question which you present arises from an amendment of Section 143.10 (I), supra, enacted by the 100th General Assembly in 125 Ohio Laws, 546, 574. Prior to its amendment, that section, formerly Section 486-7b9, General Code, provided in part as follows:

> "* * * Beginning July 1, 1951, each employee who has completed *one year, or a major part thereof,* in *a particular* position, office or employment and who is below step 5 * * * shall receive an automatic salary adjustment * * *." (Emphasis supplied.)

It is apparent that the 1953 amendment did two things: it shortened the period of service prerequisite to an automatic pay increase to ninety days; and it substituted the word "any" for the words "a particular." This second substitution is the subject of your inquiry.

It is my opinion that this change which eliminated the use of the word "particular" did not change the law from its meaning prior to its amendment. While it is true that the word "particular" has a significant meaning, the words which give real emphasis to the provision in question are "ninety days of service in * * * *position, office* or *employment.*" Those words, in my opinion, spell out the legislative intent that the automatic increase shall be awarded to employees who have been performing the same job for a certain period of time without promotion or reclassification; and the substitution of "any" for "a particular" cannot change their effect.

In reaching this conclusion I am aware of the principle that whenever possible this office in interpreting statutes should endeavor to give effect to any change made by the General Assembly in statutory language, on the assumption that each change in language is made in order to achieve some legislative purpose. If the statute in question had had no other changes made in it by the amendment in question, I might be led to a conclusion different from the one I have reached. But since the amendment clearly intended one change in the law—which change was accomplished by shortening the period of qualification from the major part of a year to ninety days—I do not feel compelled to read into the law another change which the General Assembly may have intended but failed to express.

I am also aware of my Opinion No. 605, Opinions of the Attorney General for 1951, page 151, in which I emphasized the point that the word

"particular" had been inserted into the statute in 1951 apparently for the purpose of emphasizing the necessity of holding one particular job. It could logically be argued that the General Assembly intended to avoid the effect of that opinion by its elimination of the word "particular." However, if that was the legislative intent, it was not accomplished by language which I also pointed out would achieve such a result. In the same opinion, at pages 156-157, I pointed out that the General Assembly, in providing for increases based on length of service *without regard to position or employment,* had used appropriate language which simply referred to "those employees who * * * had been continuously employed by the state of Ohio." Since such language was not used here, it is my opinion that that result was not obtained.

In view of the above it is therefore my opinion that under the provisions of Section 143.10 (I), Revised Code, as amended by House Bill No. 484 of the 100th General Assembly, 125 O. L. 546, 574, employes who have been reassigned, promoted or demoted within ninety days prior to July 1 are ineligible for the automatic salary increase provided by said section.

Respectfully,
C. WILLIAM O'NEILL
Attorney General