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IN THE COURT OF APPEALS OF IOWA

WENDELL NICHOLS, Chief of Des Moines Police, and CITY OF DES MOINES, IOWA,	)	
Appellees,	)	November 10, 1977
vs.	)	
CIVIL SERVICE COMMISSION OF THE CITY OF DES MOINES IOWA,	)	266 2-59185
Appellant,	)	
and	)	
WILLIAM WILSON,	)	
Intervenor-Appellant.	)	

Appeal from Polk District Court - Wade Clarke Judge.

Police detective appeals his transfer to Uniform Patrol Division on ground it constitutes a "demotion" in violation of the procedures established by the Civil Service Chapter, Ch. 400, The Code. - Affirmed

Philip T. Riley, City Legal Department and Eugene E Olson, Assistant City Attorney, for Appellees.

Robert E. Conley, of Conley, Zohn & Needles, of Des Moines, for Appellant and Intervenor-Appellant.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Defendant Civil Service Commission of the City of Des Moines, Iowa. and intervenor William Wilson, a police department detective, appeal the trial court's judgment reversing a Civil Service Commission order that Wilson be reassigned to duties as a detective within the Des Moines Police Department on the ground that Chief Wendell Nichols' assignment of Detective Wilson to uniform patrol duties was not a de facto demotion conducted in violation of § 400.18, The Code, since Wilson's rank and salary remained unchanged. This appeal raises the issues of what in fact is a demotion within the meaning of § 400.18; whether, given this definition Wilson was in fact demoted; whether if Wilson was not demoted, the Civil Service Commission has authority to order change pursuant to § 400.27 and whether in its de novo review of the civil service commission. the trial court gave proper consideration to the expertise of the Civil Service Commission.

Our review is de novo. Brightman v. Civil Service Commission of City of Des Moines, 204 N.W.2d 588, 590 (Iowa 1973). While we give weight to the trial court's findings of fact, we are not bound by them. Rule 14(f)(7), Rules of Appeallate Procedure.

William Wilson has been a member of the Des Moines Police Department since 1955 and has held the rank of detective since April 18, 1966, with a civil service rating and classification of 23A. Prior to this action Wilson was serving as a detective in the Inspectional Services Division of the Police Department. While he was assigned to the vice section, he requested re-assignment based on family and church conflicts. On April 2, 1975, Police Chief Nichols signed a personnel order transferring Wilson from the Inspectional Services Division to the Uniform Patrol Division. effective April 7, 1975. At the same time Nichols transferred a patrolman from Uniform Patrol to Inspectional Services ostensibly to replace Wilson.

Detective Wilson appealed the transfer to the Civil Service Commission of the City of Des Moines alleging that he was demoted to the rank of patrolman by virtue of the Chief's action in assigning him duties of a patrolman even though his rank was not changed nor his salary decreased. In support of his contention Wilson

stated that the civil service classification and rank for uniform patrol was 22, while it was 23A for detectives. Further, he introduced respective job descriptions and requirements for patrolman and detective which stated that detectives do "skilled police work." Wilson then argues that his demotion was illegal because the procedures set forth in § 400.18 were not followed.

Chief Nichols countered by arguing that Wilson was not demoted by the change in assignment of duties; his rank and salary were not changed and the duties to which he was assigned are related duties as referred to in the job classification for police detectives. Therefore, since Wilson was merely assigned related duties, not demoted, there was no requirement that the procedures for taking disciplinary action required by chapter 400, The Code, be followed.

After reviewing the evidence and hearing arguments, the Commission found that Chief Nichols did not, to the satisfaction of the Commission, sustain the contention that Wilson was not demoted. It found the change in the assignment of duties constituted a de facto demotion and that the procedures to be followed before a civil service employee was demoted were not followed. See § 400.18-.19. The Code. The Commission ordered Wilson removed from the uniform patrol and reassigned duties of a detective. Nichols and the City appealed to district court. Section 400.27, The Code.

The case was tried de novo in the district court. See § 400.27, The Code. The parties stipulated that Wilson received the same pay and retained his civil service classification as a detective. Nichols testified that the transfer was not made for disciplinary reasons but was made after Wilson requested to be taken out of the vice unit for personal reasons. He also testified that the civil service ranks, 22 and 23A, related only to the pay scale.

The trial court found Wilson's new status was that of a detective in the uniform patrol division. It also found the duties presently being performed by Wilson were within the job specifications of detective and that as long as his rank and salary as a detective remained unchanged, there was no demotion. Further, there was nothing in the civil service law which prevents the Chief of Police from assigning a detective to work in any particular division so long as there was no

change in rank or salary; Wilson had no vested right to any particular duty by reason of attaining the rank of detective. The trial court reversed the Civil Service Commission order and the Commission and Wilson appeal therefrom.

Wilson's first contention is that he was demoted within the meaning of § 400.18. Wilson's second contention is that if he were not demoted in the usual sense, he was demoted because the transfer assigned him duties of a patrolman, the classification of patrolman is a lower classification and hence a demotion even though rank and pay were not reduced. In Brightman v. Civil Service Commission of City of Des Moines, 204 N.W.2d 588 (Iowa 1973), the supreme court considered the meaning of "demotion" under § 365.18 (now § 400.18) and adopted the definition from 3 McQuillan, Municipal Corporations, § 12.132 at 552 (Third Ed. 1963): "To 'demote' means to reduce to a lower rank or grade." The court then held no demotion occurred within the statute by virtue of a disparity of pay increase between detectives and sergeants.

A question of demotion under the statute also arose in Ross v. City of Des Moines, 249 N.W.2d 648 (Iowa 1977). There, disabled firemen on pensions having no duties were recalled for light duty after a medical board found them fit for this work. The court held they were not demoted under § 400.18.

> Assuming arguendo that Des Moines firemen retired for disability are under civil service, the difficulty with the retirees' challenge based on demotion is that they were not demoted. The record shows that upon reassignment they will not lose rank, seniority, or scale of pay. 249 N.W.2d at 650.

In the instant case, it was undisputed that Wilson's rank, pay and presumably seniority were unaffected by the transfer. Therefore, we hold Wilson was not demoted within the meaning of § 400.18, The Code. Regarding Wilson's claim of demotion considering other factors, we find no support in Iowa law for his contentions.

Wilson also contends that even if he were not demoted, his rights had been affected and the Civil Service Commission had authority under § 400.27 to order the City of Des Moines to revoke the order of transfer. We have no disagreement with Wilson's contention that the Commission had jurisdiction. Section 400.27 expressly gives the Commission jurisdiction to hear and determine all matters

involving the rights of civil service employees. See also Misbach v. Civil Service Commission, 230 Iowa 323, 326, 297 N.W. 284, 286 (1941). However, we do not find any rights vested in Wilson that have been violated by this order of transfer.

We have considered the other issues raised by Wilson and find they are not dispositive of this matter.

Affirmed.