

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

Bonnie B. Currey

COMPLAINANT,

v.

Docket No. ES-58-73 Amended

E. I. DuPont deNemours and Company

RESPONDENT.

FINDING OF FACT &
CONCLUSION OF LAW & ORDER

I
PROCEEDINGS

This case came on for hearing the 21st day of July, 1981, in Parkersburg, West Virginia and was concluded on October 12, 1981.

The Complainant, Bonnie B. Currey appeared in person and by her counsel, Norris Kantor, West Virginia Human Rights Commission appeared by its counsel, Gail Ferguson, Assistant Attorney General for the State of West Virginia and the Respondent, E. I. DuPont deNemours and Company, (hereinafter referred to as DuPont), appeared by its counsel, Charles Mitchell.

This hearing was presided over by the Honorable Russell Van Cleve Hearing Commissioner and the Honorable Ray E. Ratliff, Jr., Hearing Examiner for the West Virginia Human Rights Commission.

The West Virginia Human Rights Commission upon due consideration of the entire record, testimony and evidence in the matter, the arguments of counsel, the recommendations of the Hearing Examiner and

exceptions thereto herein incorporates by reference pages 1 through 27 of the Hearing Examiner's recommended decision, and makes the following Findings of Fact, Conclusions of Law and Order.

II

FINDINGS OF FACT

1. The Complainant, Bonnie Currey, is a female, residing in Washington, West Virginia.
2. Bonnie Currey is a citizen of the State of West Virginia and an employee of the Respondent, DuPont at its Washington Works plant at Parkersburg, West Virginia, within the meaning of Sections 2 and 3, Article 11, Chapter 5 of the Code of West Virginia.
3. Bonnie Currey did in fact apply to DuPont for promotion to the position of Accounting Clerk, in a timely and proper manner.
4. Five persons other than Bonnie Currey were selected by DuPont on October 10, 1973, for the five available positions of Accounting Clerk.
5. Bonnie Currey was qualified for promotion to the job of Accounting Clerk.
6. Two of the final five selections, Carol Simpson and Carmen Adams, were lesser qualified than Bonnie Currey for the job of Accounting Clerk.
7. The selection process, culminating in the October 10, 1973 selection of the five Accounting Clerks, was unfair both because it was

selectively applied, lacked objectivity in practice, and because it resulted in the selection of two lesser qualified individuals than Bonnie Currey for Accounting Clerk.

III

CONCLUSIONS OF LAW

1. DuPont is an "employer" within the meaning of Chapter 5, Article 11, Section 3(b) of the West Virginia Code.
2. Complainant, Bonnie B. Currey is an "employee" within the meaning of Chapter 5, Article 11, Section 3(e) of the West Virginia Code.
3. On October 11, 1973, Complainant filed a verified complaint against the Respondent alleging that Respondent had engaged in unlawful discriminatory practices prohibited under Chapter 5, Article 11, Section 9 of the West Virginia Code and on January 8, 1974, Complainant filed a verified Amended Complaint alleging that Respondent had engaged in unlawful discriminatory practices prohibited under Chapter 5, Article 11, Section 9 of the West Virginia Code.
4. The Complaint of October 11, 1973 and the Amended Complaint of January 9, 1974 were timely filed within ninety (90) days of the alleged act of discrimination.

5. At all time relevant herein, the West Virginia Human Rights Commission has jurisdiction over the parties and the subject matter concerned in the Complaint and the Amended Complaint filed herein, pursuant to Chapter 5, Article 11, Sections 8, 9 and 10 of the West Virginia Code.
6. The Complaint and the Amended Complaint herein state sufficient facts upon which the charge of violation of the West Virginia Human Rights Act under Chapter 5, Article 11, Section 9(a) is based.
7. The Respondent violated the West Virginia Human Rights Act by discriminating against the Complainant, Bonnie B. Currey, on account of her sex in that the Respondent failed to promote the Complainant, Bonnie B. Currey, because Complainant is a female; and the aforesaid conduct of the Respondent constitutes discrimination against the Complainant in the terms and conditions of her employment as proscribed by the West Virginia Human Rights Act; that in this regard, the Commission specifically finds the following:
 - (a) Respondent is guilty of sex discrimination against the Complainant by promoting a less qualified male employee, Carmen Adams, over Complainant who qualified for the job.
 - (b) Respondent's selection process did not involve a true objective process, as applied in practice, which selection process resulted in the selection of two lesser qualified individuals, namely Carol Simpson and Carmen Adams, than Bonnie Currey.

8. Pursuant to Code 5-11-10, Complainant is entitled to monetary relief as a result of Respondent's discriminatory action; in addition thereto, the Complainant has suffered emotional distress and was subject to humiliation and embarrassment as a result of Respondent's conduct.
9. The Complainant is entitled to be considered for a first level management/ supervisory position with Respondent and Respondent is ordered to consider Bonnie B. Currey for said position the first time there is an opening at that level and that Respondent is ordered to pay Bonnie B. Currey back pay from October 11, 1973 until the present date, which sum of money shall be equal to that which Bonnie Currey would have received if she had occupied the position of grade 8 from October 11, 1973 until the present, with interest at a rate of six per cent (6%) per annum; and in addition thereto, the Respondent shall pay unto Complainant, or in the alternative credit her earnings record, with all fringe benefits that she would have received from October 11, 1973 until the present date.
10. In addition thereto, the Respondent shall pay unto the Complainant a sum in the amount of \$5,000.00, representing payment to the Complainant for the pain, suffering, humiliation and embarrassment that she has received as a result of the discriminatory conduct of the Respondent; that in addition thereto, Complainant is entitled to an award of attorney's fees and costs and the Respondent shall

pay unto Complainant's attorneys, KATZ, KANTOR, KATZ, PERKINS & CAMERON, attorney's fees. The total amount of said fee to be computed on the basis of an hourly itemized fee statement to be prepared by said attorneys commencing with the date of their employment in this matter subject to approval by the Commission.

11. That respondent shall take such other and further action as shall be necessary to adopt rules and regulations pertaining to employment and promotion policies so as to bring Respondent into compliance with the West Virginia Human Rights Act and Respondent shall specifically cease all acts of sexual discrimination against the Complainant, Bonnie B. Currey.

ORDER

THEREFORE, pursuant to the above Findings of Fact and Conclusions of Law, it is hereby ORDERED as follows:

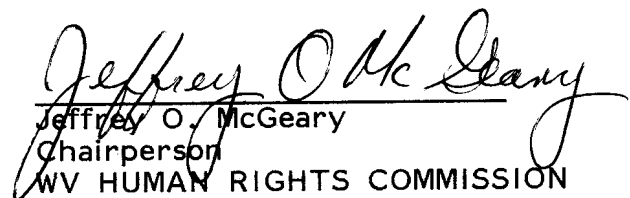
1. The Respondent, E. I. DuPont deNemours and Company, its officers, agents, employees, members, assessors, assigns, and all persons and organizations who acted in concert or in participation with them are hereby permanently Ordered to cease and desist at all places of business or operations of Respondent from engaging in any actions which deny full and equal membership rights to any individual or otherwise to discriminate against such individuals on the basis of race, sex, religion, color, national origin or blindness with respect to hiring, tenure, terms and conditions of employment or any other matter directly or indirectly related to employment.

2. It is further ordered that Respondent shall forthwith adopt and implement an affirmative action program to eliminate the effects of any discriminatory practice, and shall take such other and further action as shall be necessary to adopt rules and regulations pertaining to employment and promotion policies so as to bring Respondent into compliance with the West Virginia Human Rights Act and Respondent shall specifically cease all acts of sexual discrimination against the Complainant, Bonnie B. Currey.
3. More specifically, it is ordered that Respondent shall pay to the Complainant back pay representing compensation for loss of wages suffered by Complainant as a result of Respondent's unlawful discriminatory practices. Back pay shall be determined as if the Complainant had occupied the position of Accounting Clerk from October 11, 1973 to the present, and shall include all increases as received by Carmen Adams while occupying such position together with interest at a rate of six per cent (6%) per annum; and in addition thereto, the Respondent shall pay unto Complainant, or in the alternative credit her earnings record, with all fringe benefits that she would have received from October 11, 1973 until the present date. The Complainant shall then receive front pay at the rate of grade 8, until such time as she discontinues her employment with Respondent or until she receives a position equivalent to grade 8, or higher.
4. It is further ordered that the Respondent provide the necessary training commensurate with the position of Accounting Clerk to

which the Complainant was entitled on October 11, 1973. Such training to include training which would enable the Complainant to become considered for a position at a management/ supervisory level.

5. It is further ordered that five thousand dollars (\$5,000.00) be awarded to the Complainant for damages as compensation for humiliation, pain, suffering, and embarrassment that she received as a result of the discriminatory conduct of the Respondent. Payment of said amounts is to be made to the Complainant by sending a check to the West Virginia Human Rights Commission made payable to the order of Bonnie B. Currey. The Commission shall then forward the check to the Complainant.
6. It is further ordered that the Respondent shall pay unto Complainant's attorneys, KATZ, KANTOR, KATZ, PERKINS & CAMERON, an attorney's fee. Total amount of said fee to be computed on the basis of an hourly itemized fee statement to be prepared by said attorneys commencing with the date of their employment in this matter subject to approval by the Commission.
7. The Respondent shall comply with Commission's Order within thirty days from date of entry:

It is so ORDERED Entered this 10TH day of FEB, 1983.


Jeffrey O. McGeary
Chairperson
WV HUMAN RIGHTS COMMISSION