

Foreign Service Grievance Board

July

TO: The Director of Personnel
Department of State

SUBJECT: Remedial Order in the Case of FSO
GRIEVANT - Record of Proceedings 73-10
2-STA?:::-66

As a result of a grievance submitted by , FFC-7,

his first efficiency report from **REDACTED**, covering the period June 10-November 24, 1963. He also agreed to insert in **GRIEVANT'S** performance folder a memorandum noting that a statement submitted by the grievant for the "record in July 1970 had been misfiled and that it had been moved to his performance folder only on June 29, 1972. The 1970 and 1971 Selection Boards thus did not see it. As further relief, the Director of Personnel extended the grievant's maximum tire in grade to an FSO-7 by two years. He did not, however, respond favorably to the grievant's

GRIEVANT then filed a grievance with this Board, seeking the redress he was denied by the Department: retroactive promotion.

The Board conducted an investigation which included an examination of the Board's own Record of Proceedings file; the grievant's performance and administrative files; AID Manual Orders and the uniform regulations of State/AID/USXA pertinent to the case. Individuals consulted included the grievant's representative. **REDACTED**;

his career counseling officer, **REDACTED** - various in AID, and the Department familiar with CGRZT ; other provisions.

In communications with the Board the grievant has stated that his 1965 low-ranking and his failure to be promoted since 1965 have had a detrimental effect on his morale and his commitment to the Foreign Service. He considers that his **REDACTED** assignment and the ratings he received there affected to some extent his performance in **REDACTED** and thus the ratings he received from that post. He believes the policy of the Department which allowed the assignment of first-tour officers to another agency - in his case, AID

and CQPJ3S—was unsound and unjust, and considers its later reversal to be an acknowledgment by the Department of the shortcomings of that policy.

In considering **GRIEVANT'S** grievance the Board has endeavored to assess these aspects of his case in relation to his efficiency-record in an effort t.o determine whether Selection boards have had a fair basis on which to make their determinations. The Board has thup considered the **REDACTED** assignment itself, the leave problem the grievant encountered in **REDACTED**, his efficiency record in both **REDACTED** and **REDACTED**, and his 1SSS- lov-ranking.

The **REDACTED** Assignment

The grievant. stated to the Board that he was incorrectly listed as a volunteer for the CORDf program., that he did not volunteer. He was, in fact, disturbed by an out-of-Ager.cy assignment at the outset of his career, and concerned even then about the possible effect on his career development. The Loard has noted that he vas 23 '-rhan he went to **REDACTED**. and That he had had no Prior work experience of any kind before his entry into the Foreign Service

As noted by the Foreign Service Inspector v*ho interviewed the grievant during the early part of his **REDACTED** tour,- working conditions in the COTSS program involved family separation, personal danger, and unfamiliar jobs, the work being often alien to the normal functions of a Foreign Service establishment. While it was certainly not the ideal background for a beginning FSO to test his reactions to the Foreign Service as a career, it was Department policy for a period to assign entering FSO's to CORDS, and the grievant was by no means alone in havinr such a first assignment. Many officers, furthermore, young and ir,-. -rperier.cea as was the crievant, suffered no apparent acversc acts or. their careers as a result of a first assignment in CO- ". Some of Them undoubtedly benefited from the experience, fulfil"- the prophecy of the Foreign Service Inspector referred to above that an officer, "'whether or not: he volunteered" for such duty, who performed well under the difficult conditions of **REDACTED** v/oid almost certainly leave that country "a crucially tested and more valuable officer," vrho would deserve

It seems clear that **REDACTED**. presented unusual problems cf adjustment for the gri-evzr-t, but the Board does not find that- the assignment per se can be regarded as a prejudicial factor in his failure to be urom-oted.

The Leave Problem. in REDACTED.

At the time the grievant arrived in REDACTED., on June 2, 1964, he was single. He married on October 10, 1965, and thereafter became eligible for family visitation privileges, which permitted a certain amount of travel: to visit dependents—under certain conditions, including restrictions on the amount of time to be spent out of the country, and on the timing of such visits. Time used for such travel was chargeable to earned annual leave, earned compensatory time, or leave without pay.

The Board understands that the controversy of the grievant with his supervisor revolved around questions of the timing of family visitation leaves and the length of those leaves, and not with leave as such. Despite regulations that annual leave was not to

be used in advance of the date of departure, the grievant advised his plans for such travel: to visit his wife and children for a period of 167 hours of leave without pay; and that when he departed from the post in December 1965, he was permitted to carry over unused compensatory time earned during his last 26 weeks at the post for use after his departure.

After eligibility was established, the **GRIEVANT** took family visitation leaves. His supervisor, however, turned down his request for a visit in May 1965, and for a period of three months he was permitted no out-of-country leave*. The Board understands that the grievant's supervisor felt that notwithstanding eligibility dates, it was necessary that the grievant's trips be scheduled so

as to not interfere with the work of other employees. It is also understood that wives were permitted to come to REDACTED at certain periods and that the grievant's wife visited him on several occasions, one such visit occurring during the three-month period in question.

It was entirely natural that the grievant wished to use his family visitation privileges to the full. Under the regulations pertaining to scheduling of such travel, however, (AID Manual Order 455.2; 3 FAM 69S) as well as the regulations governing leave in general (3 FAM 432 et seq.), his supervisor clearly had the right and the duty to see that leave was scheduled with due regard for the orderly performance of official duties and for the leave rights of others. The grievant submitted to the Board a copy of a statement by a high official of CORDS that all personnel were to be authorized leave "at the frequency and on the date eligible," and that any ¹¹ command pressure to change or delay leaves more than one week"

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he would consider to be in violation of his policy. The statement is apparently undated, but the copy shows on its face that the statement was received in the office of CORDS, IV Corps, on November 14, 1952, which was immediately after the rating period which this issue was

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While there is no allegation in respect to the grievant's leave, the leave issue was undoubtedly an irritant that affected the relations between the grievant and his supervisor. This Board has therefore examined the efficiency record with particular care in an effort to determine whether the supervisor allowed his concern over the leave problem to prejudice his evaluation of the grievant.

subsequent

after noting progress made by the grievant during his stay there, and his promise for the future if he continued to progress and re, also indicated that he would have to demonstrate a greater willingness to accept responsibility, to initiate on his own, to prepare his work thoroughly and to follow through on it, and to strengthen his motivation to pursue the Foreign Service as a life-time career. These criticisms, noting characteristics that time and experience usually mitigate, were central issues in the redacted reports. The theme that runs through all reports in both redacted and redacted his need to mature - to be more thorough, to consider that other viewpoints may be valid, - and to exercise tact in the presence of his own views and in his relations with others -

When all of the disadvantages of the redacted situation are

stay have been unusually the Board does not find that the grievant was unfairly treated by that supervisor. There is a consistency in the record that redacted post and from redacted regard to certain key factors, and in redacted the leave issue cannot be said to have played a part in the judgment of rating officers. "The notes redacted; reports were unduly or influenced by the leave problem. As noted below, however, the Board does find certain faults in the final redacted

related to the leave issue or performance evaluation in

ledced—including the possibility that the crrievant's sur

Conclusion

After considering all relevant factors, the Board does not find that the circumstances of this case provide a basis for a recommendation for 5 promotion.

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grievant's performance for June 16-September 21, 1969, has

to regulations, the rating officer did not discuss the report in person with the rated officer. Also, the rating officer charged the grievant with failure to respond to supervision but, despite instructions to do so, failed to offer any specific examples to support his 'critical statement.

Removal of this report changes the relevance of certain aspects of the grievant's July 127" statement, since it is primarily concerned with the above-described efficiency report. The Board notes as well that the last paragraph of the grievant's statement of December 29, 1969, also refers to the same efficiency report. The Board's information is that the grievant is preparing an edited version of these statements, with all references to the efficiency report for the period June-September 1969 removed. The Board expects that in due course the grievant's representative will submit the amended documents to the Department for inclusion in the grievant's performance folder.

The Board has also determined that in fairness to the grievant the 1969 low-ranking should be expunged, since it was based in part, on the grievant's first efficiency report from Viet-I\an, which has since been removed by the action of

Board therefore orders as follows:

- a. that the efficiency report covering the grievant's performance for the period June 16-September 21, 1969, be removed from his performance record. The Board suggests that the report be forwarded to it for storage.
- b. that the attached memorandum, be substituted for the above-described efficiency report.
- c. that the 1969 low-ranking be expunged.

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Certification of compliance should be forwarded to the Board within 50 days prior, *izhe* date of this memorandum.

Alexander S. Porter
Deputy Chairman Foreign
Service Grievance Board

HQ--OTs.Tic.uT?. for grievant's file

cc: **GRIEVANT**
Allen L. Keiswetter, Esquire

MEMORANDUM

? report, covering the period June 15-September 21, 1965, has been removed by order of the Foreign Service Grievance Board, which found it to be deficient and contrary to regulations in several respects and thereby unfair to the officer.

In the Board's opinion the officer has suffered considerable disadvantage in that two reports which have been found to be defective enough to warrant their removal from his file have nevertheless been seen by Selection Boards. Furthermore, a rebuttal statement prepared by the officer with reference to one of these reports was misfiled and as a result was not seen by Selection Boards for two years. The Boards therefore did not have the benefit of this document when they were evaluating the officer's performance file.

The Board believes that the cumulative effect of these circumstances has worked to the officer's detriment and that future Selection Boards should take this fact into account.

July 24, 1973