

1974 WL 3027
United States District Court, E.D. Michigan, Southern Division.

Schaefer et al.
v.
Tannian et al.

No. 39943 | June 7, 1974 and July 3, 1974

Opinion

FREEMAN, D.J.

*1 This cause coming on to be heard on the motion of plaintiffs for partial summary judgment and for preliminary relief pursuant to Rules 56 and 65, F.R.C.P., respectively; and the Court having heard argument and being fully advised in the premises, hereby GRANTS plaintiffs' motion for partial summary judgment, and hereby finds that plaintiffs are suffering irreparable harm and that the equities herein lie with the plaintiffs.

It is therefore ordered, adjudged and decreed that, pending further order of the Court or the issuance of a permanent injunction, defendants, their officers, agents, representatives, employees, and successors, and all persons in active concert and participation with them, shall cause the Detroit Police Department to perform the following acts:

1. The Department shall include at least five women in each of the next three classes and four women in the fourth class to be held for candidates for promotion to the rank of sergeant, such women to be selected in the order in which they appear on the Department's current Eligible Register For Sergeant, and
2. Thereafter, promote persons to the rank of sergeant without regard to sex.

Ordered.

On June 7, 1974, this Court granted plaintiffs' second motion for partial summary judgment and issued a preliminary injunction requiring defendants to cause the Detroit Police Department to promote nineteen women to the rank of sergeant and thereafter to promote persons to the rank of sergeant without regard to sex.

The order granting the partial summary judgment and preliminary injunction was based on the following undisputed facts which, in accordance with Rule 56(d), Federal Rules of Civil Procedure, are hereby deemed to be established as true for the purposes of this action:

1. The Department has historically discriminated against its female police officers (formerly known as policewomen) in promotion and assignment.
2. Prior to 1971, policewomen were restricted to the Women's Division (Int. #29, 2d Set), which resulted in limiting the number of women in the Department to the approximate size of the Women's Division (Int. #48, 2d Set).
3. Because women were restricted to the Women's Division, the number of female sergeants was limited by the authorized strength of that Division (Int. #9, 2d Set).
4. At all times until December, 1973, women candidates for the sergeant position were separately listed and placed on a sex-segregated promotion list (Int. #17, 2d Set).
5. As a consequence of the separate promotion lists, females competing against other females had proportionately fewer opportunities than males competing with other male patrolmen. For example, in 1972 there were 12 sergeant positions for which 65 women could compete-*i.e.*, one sergeant position for every 5.4 police women. At the same time, there were 1,006 male sergeant positions for 3,004 male patrolmen-*i.e.*, one sergeant position for every 3.4 patrolmen. In other words, a police

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woman had 37% less likelihood of being promoted than her male counterpart (data stated in Detroit Police Department intra-office memorandum from James Geissner, Labor Relations, to John F. Nichols, Commissioner, dated April 26, 1972).

*2 6. The following table indicates the percentage of eligible male patrolmen actually promoted in 1969, 1970, and 1972:

| Year | Number eligible for promotion | Number promoted | Percent |
|-------------|--------------------------------------|------------------------|----------------|
| 1969 | 359 | 194 | 54 % |
| 1970 | 525 | 380 | 72.3% |
| 1972 | 521 | 444 | 85.2% |

(Int. #19, 2d Set).

During a comparable period, the figures for women were:

| Year | Number eligible for promotion | Number promoted | Percent |
|-------------|--------------------------------------|------------------------|----------------|
| 1968 | 10 | 3 | 30 % |
| 1971 | 14 | 7 | 50 % |

(Int. #2, 2d Set).

7. The proportion of female sergeants to the total number of sergeants has, for the past decade, been smaller than the porportion of police women to total employment in the Police Department.¹

8. Since 1963 the number of sergeant positions for males has increased 240%, whereas the number of sergeant positions for females has increased 30%.

9. As of June 6, 1974, there were 1170 male sergeants for 3926 male police officers, roughly one to every four police officers (29.8%). At the same time, there were 13 female sergeants for 101 female police officers, about one for every eight female police officers (12.1%).

10. Since December 1973, the Department has abolished the separate promotion list for males and females (Ints. #16-17, 2d Set).

11. The Department now acknowledges that female sergeants are capable of performing duties in all divisions of the Department (Ints. #8 and 11, 2d Set).

Parallel Citations

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10 Fair Empl.Prac.Cas. (BNA) 896, 8 Empl. Prac. Dec. P 9605

Footnotes

¹ The percentage of women within the Department over a comparable period is discussed in the Court's memorandum opinion herein of May 22, 1974.

| Year | Male | Female | Total | Percent Female |
|-------------|-------------|---------------|--------------|-----------------------|
| 1963 | 344 | 10 | 354 | 2.8% |
| 1964 | 344 | 10 | 354 | 2.8% |
| 1965 | 450 | 10 | 460 | 2.1% |
| 1966 | 354 | 10 | 464 | 2.7% |
| 1967 | 347 | 10 | 357 | 2.8% |
| 1968 | 478 | 10 | 488 | 2.0% |
| 1969 | 666 | 10 | 676 | 1.4% |
| 1970 | 823 | 11 | 834 | 1.3% |
| 1971 | 1022 | 11 | 1033 | 1.0% |
| 1972 | 1125 | 8 | 1132 | 0.7% |
| 1973 | 1195 | 12 | 1207 | 0.9% |
| 1974 | 1170 | 13 | 1183 | 1.0% |

(Int. #2, 1st Set).