

STATE OF MAINE
CUMBERLAND, SS.

SUPERIOR COURT
CIVIL ACTION

DOCKET NO. 76-274

LOIS G. RECKITT, of South Portland,
County of Cumberland and State of
Maine,

PLAINTIFF

vs.

WESTBROOK SCHOOL COMMITTEE, William
Gowen, Lawrence Swett, Thomas Joyce,
Jr., Francis Lyons, Alwin Wait, Philip
Rondeau, Fred Wescott, Elizabeth
Giguere, Albert May, individually
and in their official capacity, their
agents, employees and successors in
office, as they constitute or have
constituted the Westbrook School
Committee, all of Westbrook, in the
County of Cumberland and State of
Maine,

DEFENDANTS

COMPLAINT

NOW COMES the plaintiff and by her attorney, Joseph L.
Bornstein, states as follows:

NATURE OF CLAIM

1. This is an action for declaratory and injunctive relief
and damages to redress the deprivation of certain civil rights
secured to plaintiff by the Maine Human Rights Act, 5 M.R.S.A.
§ 4551, et seq., Article I, § 6-A of the Maine Constitution and
the Fourteenth Amendment to the United States Constitution.

JURISDICTION

2. The Court has jurisdiction over this action under 5
M.R.S.A. § 4621, 14 M.R.S.A. § 6051(13) and 4 M.R.S.A. § 105.

PARTIES

3. The plaintiff is a resident of South Portland, County of Cumberland, State of Maine, and is a member of the female sex.

4. Defendant Westbrook School Committee (hereinafter sometimes called "Committee") is a duly constituted administrative body of the City of Westbrook, Maine, comprised of seven (7) members, each Committee member having been duly elected by the citizens of Westbrook. On or about March 24, 1975, the following persons constituted the defendant Committee: William Gowen, Lawrence Swett, Thomas Joyce, Jr., Francis Lyons, Alwin Wait, Philip Rondeau and Fred Wescott. At present the following persons constitute the defendant Committee: William Gowen, Elizabeth Giguere, Thomas Joyce, Jr., Francis Lyons, Albert May, Philip Rondeau and Fred Wescott.

5. Defendant Committee is, and was at all relevant times herein, an "employer" as that term is defined in 5 M.R.S.A. § 4553(4) and as used in 5 M.R.S.A. § 4572(1)(A). The defendant Committee members, or their predecessors in office, at all times relevant herein, were acting in their official capacity as members of said Committee.

6. At least thirty (30) days prior to the commencement of this action, plaintiff filed a Complaint with the Maine Human Rights Commission alleging unlawful employment discrimination.

STATEMENT OF CLAIM

7. Plaintiff adopts and incorporates by reference the allegations contained in Paragraphs 1, 2, 3, 4, 5, and 6 above as if contained herein in full.

8. In or about January 1975, defendant Committee (or other agency of the City of Westbrook, Maine) created the position of pool director for the Westbrook Junior High School swimming pool

and purported to solicit applications for that position.

9. On or about February 2, 1975, plaintiff applied for the position of pool director.

10. In a letter to plaintiff dated February 26, 1975, Harold W. Hickey, Superintendent of Schools for the City of Westbrook, Maine (hereinafter sometimes called "Superintendent"), informed plaintiff that she had "been selected from a group of thirty-four applicants to be interviewed for the position of pool director at Westbrook Junior High School."

11. In a letter to plaintiff dated March 14, 1975, plaintiff was notified by said Superintendent that she was "one of the candidates who have been selected by the screening committee for further interview for the position of pool director at Westbrook Junior High School. She was scheduled to be interviewed by the defendant Committee on March 24, 1975.

12. Plaintiff was interviewed by defendant Committee on or about March 24, 1975, at 7:25 P.M. Plaintiff had never met with defendant Committee before said interview. On information and belief, the defendant Committee five (5) minutes later convened their regularly scheduled open meeting at 7:30 P.M. on March 24, 1975. At that meeting the defendant Committee announced the successful applicant for the said position, a member of the male sex.

13. In a letter dated March 25, 1975, said Superintendent notified plaintiff that "after much deliberation, the School Committee selected Dennis Connolly for the position of pool director."

14. Plaintiff was qualified for the position, but defendant Committee selected a less qualified male applicant.

15. The defendant Committee, during all times relevant hereto, and particularly with respect to the application of

plaintiff for the position of pool director, were guilty of a pervasive pattern or practice of unlawful employment discrimination because of sex in violation of 5 M.R.S.A. § 4572(1)(A) by denying equal opportunity for employment, and did in fact discriminate against plaintiff by failing and denying to employ her in said position.

16. As a direct and proximate result of the unlawful discrimination by the defendant Committee, plaintiff has been, and continues to be, deprived of employment in the said position and of the salary and benefits that inure to that position, has been injured in her professional reputation and standing in the community, and has been subjected to ridicule, humiliation and emotional distress.

COUNT II

17. Plaintiff adopts and incorporates by reference the allegations contained in Paragraph 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, and 16 above as if contained herein in full.

18. The facts alleged in Paragraph 17 above constitute a denial by the defendant Committee of the rights to due process and equal protection of the laws and the right to be free from discrimination in the exercise of civil rights secured to plaintiff by Article I, § 6-A of the Maine Constitution.

COUNT III

19. Plaintiff adopts and incorporates by reference the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 18 above as if contained herein in full.

20. The facts alleged in Paragraph 19 above constitute unlawful employment discrimination because of sex in violation of 5 M.R.S.A. § 4572(1)(A).

COUNT IV

21. Plaintiff adopts and incorporates by reference the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, and 20 above as if contained herein in full.

22. The facts alleged in Paragraph 21 above constitute a denial by defendant Committee of the rights to due process and equal protection of the laws guaranteed to plaintiff by the Fourteenth Amendment to the United States Constitution.

WHEREFORE, plaintiff respectfully prays this Court as follows:

a. For judgment declaring that defendant Committee's practices complained of herein are unlawful and violative of the Maine Human Rights Act, the Fourteenth Amendment of the United States Constitution, and Article I, § 6-A of the Maine Constitution;

b. For preliminary and permanent injunction enjoining the defendant Committee, its successors, employees, attorneys or any other persons acting on its behalf, from engaging in each of the unlawful patterns or practices of discrimination complained of herein and from continuing any and all other practices shown to be in violation of applicable law;

c. To compensate and make whole plaintiff for all earnings, wages and other benefits which she would have received but for defendant Committee's discriminatory practices;

d. To order defendant Committee to establish and implement an affirmative action plan to redress defendant Committee's history of unlawful discrimination against the members of the female sex;

e. To declare vacant the pool director position for which plaintiff applied and which was discriminatorily filled with a male, and to order defendant Committee to fill the position under the affirmative action plan;

f. To award the plaintiff Ten Thousand Dollars (\$10,000) as compensatory damages for her mental anguish and emotional stress, her inconveniences and humiliation, and damage to her professional reputation resulting from defendant Committee's discrimination;

g. To award the plaintiff Ten Thousand Dollars (\$10,000) as damages for defendant Committee's willful disregard of plaintiff's right not to be discriminated against in her employment on account of her sex;

h. To award the plaintiff One Hundred Dollars (\$100) as punitive damages pursuant to 5 M.R.S.A. § 4613(2)(B)(7);

i. To award plaintiff her costs and disbursements in this action and reasonable attorney's fees;

j. For such other relief as the Court deems just and appropriate to remedy defendant Committee's unlawful discrimination against the plaintiff.

Dated at Portland, Maine, on this the 22nd day of March, 1976.

/s/ Joseph L. Bornstein

Joseph L. Bornstein
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