

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL L. SHAKMAN and PAUL M. LURIE, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. 69 C 2145
)	
THE DEMOCRATIC ORGANIZATION OF COOK COUNTY, et al.,)	Hon. Nicholas J. Bua
)	
Defendants.)	

JUDGMENT AS TO THE
CITY OF CHICAGO AND ITS MAYOR

Plaintiffs Michael L. Shakman and Paul M. Lurie have filed their First Amended Complaint, as supplemented, on behalf of themselves and the classes they represent as determined by previous Order of Court. The First Amended Complaint, as supplemented, alleges that defendants violated plaintiffs' rights by illegally conditioning, basing and affecting the obtaining and maintaining of governmental employment upon political sponsorship, affiliation, and support.

On May 5, 1972, this Court entered a Consent Judgment with respect to, among others, the City of Chicago and its Mayor, prohibiting the conditioning, basing or affecting any term or aspect of governmental employment (with respect to persons once hired) upon or because of any political reason or factor. That Consent Judgment retained jurisdiction for the parties to continue to litigate the question of whether political sponsorship or other political considerations may be taken into account in hiring employees. It also retained jurisdiction to enable the parties to apply to the Court for further orders and directions for the carrying out of the provisions of the 1972 Consent Judgment and to enforce compliance with its provisions, as well as to determine which governmental employment positions should be exempt from its provisions.

On September 24, 1979, this Court granted plaintiffs' Motion for Partial Summary Judgment and entered extensive findings of fact and conclusions of law, finding basically that various defendants, including the City of Chicago, illegally conditioned, based and affected the hiring of persons for governmental employment upon and because of their political sponsorship, affiliation and support. This Court held an evidentiary hearing, and received extensive memoranda with respect to the form of relief to be provided for the violations of plaintiffs' rights as determined by that decision.

This Judgment is entered to provide relief for the violations of plaintiffs' rights as determined in the decision of September 24, 1979, and to prevent further such violations of plaintiffs' rights. It is also entered to carry out and implement the 1972 Consent Judgment.

The purposes of this Judgment are to eliminate the conditioning, basing or affecting of employment with the City of Chicago on political reasons or factors while maintaining the ability of the elected officials of the City lawfully to establish, manage and direct the policies and affairs of the City.

This Judgment goes no further than to attempt to eliminate political considerations in the hiring of non-exempt Governmental Employees; it does not impose a civil service system nor does it necessitate that a merit system be utilized.

NOW, THEREFORE, it is Ordered, Adjudged and Decreed as follows:

A. Jurisdiction. This Court has jurisdiction of the parties to this Judgment and of the subject matter of this action under Sections 1331 and 1343(3) of Title 28 of the United States Code.

B. Definitions. As used in this Judgment (1) the term "Governmental Employment" means any employment (whether full-time or part-time, permanent or temporary, and regardless of whether the employment is paid for by Federal funds) by or for the City of Chicago, or any other non-federal governmental office or entity under the direction and control of the City of Chicago; (2) the terms "Governmental Employee" and "Employee" mean a person employed in Governmental Employment; (3) the term "Exempt Position" means a Governmental Employment job, which is determined to be exempt from the provisions of Paragraphs D and E of the 1972 Consent Judgment and Paragraphs D through M, inclusive, of this Judgment, all as provided in Paragraph N below; and (4) the term "1972 Consent Judgment" means the Judgment previously entered in this case upon the consent of plaintiffs and various defendants on May 5, 1972.

C. Persons Bound. The provisions of this Judgment apply to the CITY OF CHICAGO; HAROLD WASHINGTON, individually and as Mayor of the City of Chicago; his successors as Mayor; the present and future officers, agents, servants, employees and attorneys of the City of Chicago, its Mayor and others named or referred to in this paragraph; and all others in active concert or participation with the City of Chicago, its Mayor or others named or referred to in this paragraph who receive actual notice of this Judgment, by personal service or otherwise.

D. Declaratory Relief. It is declared that the conditioning, basing or affecting the hiring of Governmental Employees (other than for Exempt Positions) upon or because of any political reason or factor including, without limitation, any prospective employee's political affiliation, political support or activity, political financial contributions, promises of such political support, activity or financial contributions or such prospective employee's political sponsorship or recommendation is prohibited.

E. Injunction. The City of Chicago, its Mayor and all others named or referred to in Paragraph C above are permanently enjoined from directly or indirectly, in whole or in part:

(1) conditioning, basing or knowingly prejudicing or affecting the hiring of any person as a Governmental Employee (other than for Exempt Positions), upon or because of any political reason or factor including, without limitation, any prospective employee's political affiliation, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such prospective employee's political sponsorship or recommendation; or

(2) knowingly inducing, aiding, abetting, participating in, cooperating with the commission of any act which is proscribed by this Paragraph E, or threatening to commit any act proscribed by this Paragraph E.

F. Plan of Compliance. The City of Chicago shall, not later than 120 days from the date this Judgment becomes effective, file with the Court, with copies to all parties to this Judgment, a Plan of Compliance to implement this Judgment.

The Plan of Compliance shall set forth in detail a method or methods of hiring to be used for all Governmental Employment positions (other than Exempt Positions) with the City of Chicago. Each such method of hiring shall establish criteria for hiring which shall establish on an objective basis that the method complies with Paragraphs D and E above. The method or methods of hiring set forth in the Plan of Compliance shall be within the discretion of the City of Chicago, as long as the method or methods comply with the requirements of this Judgment.

The Plan of Compliance shall also provide for the instruction of persons having responsibility for hiring as to the requirements of this Judgment and the Plan of Compliance and shall provide for the monitoring of compliance with this Judgment and the Plan of Compliance.

Should plaintiffs conclude that the Plan of Compliance of the City of Chicago is not in compliance with this Judgment, or is inadequate to ensure compliance with this Judgment, they may apply to the Court for further orders to enforce compliance, including directing changes in the Plan of Compliance. Within one year of the date this Judgment becomes effective, the City of Chicago shall implement the Plan of Compliance as so filed and as it may be so changed.

The Plan of Compliance may contain provisions providing for the means by which hiring methods may be changed, consistent with this Judgment, and shall provide for appropriate notice to be given the parties of such proposed changes.

G. Notices of Job Availability. The City of Chicago and all others named or referred to in Paragraph C above are permanently enjoined from hiring any person for any Governmental Employment position (except for Exempt Positions and except, as provided below, for emergency hiring) unless prior public notice of the opportunity to apply for and be hired for the job has been given, as provided in this Paragraph G. This requirement shall apply to hiring of persons after a date 60 days after this Judgment becomes effective.

During the period of ten years after this Judgment becomes effective, the method of giving notice shall be as provided by this Paragraph, unless an alternative method is approved by the Court. The notice shall be given at least fourteen days before the last date for which applications may be submitted for consideration for the job. [In instances in which the City of Chicago establishes a list of persons eligible to be hired for a particular position, and hires persons for the position solely from that list, it is suf-

ficient for the City of Chicago to have given the required notice at least 14 days prior to the time in which to file an application for the position and no additional notice need be given as persons are hired for the position from among the persons placed on the list of eligible applicants pursuant to the notice.) The notice shall include a description of the nature of the job, the qualifications, the pay, and how and where to apply for the job. The notice shall be given in the following manner:

(1) by prominently posting the notice for inspection by the general public at the main office of the Department of Personnel of the City of Chicago and at at least eight additional geographically distributed City of Chicago facilities. (A list of all such available job opportunities with the City of Chicago shall similarly be posted. The list must be updated at least monthly. Copies of the list and of all such notices shall be provided free of charge to each person who requests a copy in person); and

(2) by mailing copies of the list of available job opportunities to each organization or person who shall have requested receiving such lists by mail. (The City of Chicago may provide in its Plan of Compliance for a charge to organizations or persons requesting lists by mail of a reasonable fee to cover costs of so distributing the list.)

The Plan of Compliance may make provision for establishing reasonable limits on the period during which a person shall be entitled to continue to receive by mail lists of job opportunities after having most recently requested the notice.

The Plan of Compliance may make reasonable provisions for hiring persons in exceptional, emergency situations without prior notice having been given as provided in this paragraph. Any such provision shall contain rigorous limitations on the number of persons who may be so hired in a year. The Plan of Compliance shall also provide for regular reports to the Court of instances in which such emergency hiring was made, setting forth the reasons why it was an emergency situation, including why it was not possible to have made arrangements by which the hiring could have been made upon prior notice.

The Plan of Compliance may make reasonable provision, with respect to positions which are to be filled by promotions of persons already employed as Employees of the City of

Chicago, for notices to be given only to Employees eligible for the promotion.

H. Notice of List of Jobs. The City of Chicago shall cause to be published, at least once each calendar quarter for a period of ten years following the date this Judgment becomes effective, in the "help wanted" section of a Chicago daily newspaper having a circulation of greater than 200,000, a prominent notice of the existence and availability of the list described in Subparagraph G(1), stating where the list is available for public inspection, stating where copies may be obtained in person and stating also how persons may receive copies of the list by mail.

I. Notice to Employees. The City of Chicago shall cause a copy of the Notice which is attached to this Judgment to be delivered within 30 days of the date this Judgment becomes effective to each Governmental Employee of the City of Chicago.

J. Notice to Job Applicants. The City of Chicago is directed, for a period of ten years, following the date this Judgment becomes effective, to cause a copy of the Notice referred to in Paragraph I, to be delivered to each applicant for employment with the City of Chicago. The Notice shall be delivered to each applicant at the time he or she applies for the Governmental Employment position.

K. Posting of Judgment. A copy of this Judgment and a copy of the Notice referred to in Paragraph I shall be prominently posted at each place where persons may make applications for employment with the City of Chicago. Copies of this Judgment and such notice shall remain so posted for a period of ten years following the date this Judgment becomes effective. A notice similarly posted shall state that a copy of the notice referred to in Paragraph I is available to any person who requests them.

L. Affidavits of Compliance. The City of Chicago shall cause to be filed with the Clerk of this Court within 45 days of the date this Judgment becomes effective an affidavit showing compliance with Paragraph I. The City of Chicago shall cause to be filed with the Clerk of this Court prior to the last day of each calendar quarter, beginning with the year in which this Judgment becomes effective and ending ten years after that year, an affidavit showing compliance with Paragraphs G, H, I, J and K for the period since the last date covered by the most recent affidavit. These quarterly affidavits shall list the name and position

of all persons hired since the most recent such affidavit (or, in the case of the first affidavit, since the date this Judgment becomes effective) by the City of Chicago, other than for an Exempt Position. The affidavits shall also disclose the name and party position of every person or organization, reasonably known to officials of the City of Chicago with the responsibility for hiring the Employee to be a political party organization which, or an official or agent of a political party organization who, has, as reflected by a writing known to such official of the City of Chicago, recommended or sponsored the Employee for Governmental Employment, other than for an Exempt Position. Nothing in this paragraph shall require any person to make any inquiry as to any person's political affiliation.

M. Annual Reports. In each of the years 1984 through 1993, inclusive, the City of Chicago shall file a verified report (prior to March 1 of the year), with copies to all parties to this Judgment, detailing all steps taken in the preceding year to implement the Plan of Compliance referred to in Paragraph F and otherwise to comply with this Judgment and also stating all changes in methods of hiring persons for Governmental Employment made since the last date covered by the last such report or, in the case of the first report, since the date this Judgment becomes effective.

N. Exempt Positions. The Governmental Employment positions under the control of the City of Chicago as listed in the attached Schedule of Exempt Positions are positions exempt from this Judgment and the 1972 Consent Judgment.

The City of Chicago may from time to time add positions to or delete positions from part G of the Schedule of Exempt Positions, provided that the total number of jobs on part G of the Schedule, as so amended from time to time, shall not exceed the number initially on part G of the Schedule and provided further that the total number of jobs added to the Schedule in any year shall not exceed 10% of the initial number of jobs on part G of the Schedule. However, each position so added to part G of the Schedule must be a position which involves policy to such a degree or is so confidential in nature with regard to policy that employment decisions concerning the positions are required to be exempt from inquiry under this Judgment and the 1972 Consent Judgment. Any such amendment to part G of the Schedule shall, prior to becoming effective, be filed with the Clerk of this Court and served on each counsel of record in this case.

The City of Chicago shall at all times maintain available for public examination an updated Schedule of Exempt Positions.

D. Consent Judgment. The 1972 Consent Judgment remains in full force and effect. This Judgment represents the disposition, as to the City of Chicago and its Mayor, of the claims as to which jurisdiction was retained under Paragraph H(1) of the 1972 Consent Judgment. This Judgment is also entered under Paragraph H(2) of that 1972 Consent Judgment.

P. Jurisdiction Retained. Jurisdiction is retained for the following purposes:

(1) To enable the parties to this Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of the 1972 Consent Judgment and this Judgment, for the enforcement of compliance with the provisions contained in the 1972 Consent Judgment and this Judgment, and for remedy for the violation of any of those provisions. Application to enforce those provisions or to remedy any violation, may be presented to this Court by any registered voter. Prior written notice of all such applications and other matters in this action shall be given to the named parties to this Judgment;

(2) To enable the parties to this Judgment to apply at any time for modifications to the requirements of Paragraphs F through M of this Judgment, which modifications shall be warranted by good cause and consistent with or necessary for the implementation of Paragraphs D and E;

(3) To determine whether provisions of this Judgment which by their terms may expire upon a term of years should be extended for a further period;

(4) To enable the parties to this Judgment, at anytime within 2 years of the effectiveness of this Judgment, upon the occurrence of a material change in factual circumstances, to apply for a modification of Paragraph N of this Judgment as may be necessary in order to achieve the purposes of this Judgment;

(5) To enable the parties to this Judgment to apply for a modification of the Schedule of Exempt Positions as may be necessitated by a material change, from the date of the effectiveness of this Judgment, in the total number of positions with the City of

Chicago which involve policy to such a degree or are so confidential in nature with regard to policy that employment decisions concerning the positions are required to be exempt from inquiry under this Judgment and the 1972 Consent Judgment; and

(6) To determine the amount of plaintiffs' costs and attorneys' fees. Defendants shall pay plaintiffs' costs and attorneys' fees if so determined by Court order.

Q. Effectiveness. The Court expressly finds and determines, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay. Finality of this Judgment is important to protect the rights of the parties. It directs that this Judgment now be entered as a final judgment and be effective upon its entry.

IT IS SO ORDERED.



Nicholas V. Sias, Judge,
United States District Court

100-21-112

Dated: , 1983