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IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

INTERNATIONAL UNION, UAW, et al.,

Plaintiffs,

v.

Civil Action No. 89-CV-60071-AA

Hon: George LaPlata

ELIZABETH H. DOLE, Secretary,
U.S. Department of Labor,

Defendant,

and

ELIZABETH P. HOWE, et al.
Rule 19 Defendants.

Rule 19 Defendants.

JUDGMENT

~~ORDER~~ GRANTING CLASS RELIEF

This matter is before the Court on remand from the Court of Appeals. The plaintiffs have moved for relief and the Court, having reviewed the briefs of the parties and the entire record herein;

IT IS HEREBY ORDERED, DECLARED, AND ADJUDGED THAT:

1. The application of Michigan unemployment insurance (UI) law regarding good cause for late filing of Trade Adjustment Assistance (TAA) claims is not inconsistent with the Trade Act of 1974, 19 U.S.C. §2271 et seq. (hereafter, the Act), or its implementing regulations, 20 C.F.R. §617.1 et seq., or the purpose of the Act or the regulations, so long as the cooperating state agency's determination of good cause includes findings of genuine interest in training and the absence of dilatory conduct on the part of the certified worker.

2. The defendant Secretary of Labor (hereafter, the Secretary) will instruct the Michigan Employment Security Commission (MESC), in writing, within 15 days of the date of this order, that it is to apply the interpretation of the Act and the regulations contained in paragraph 1 of this Order to all TAA claims of class members, consistent with the remaining terms of this Order.

3. The Rule 19 Defendants (hereafter, the state defendants), who have authority and control over the MESC, the cooperating state agency which administers the Trade Adjustment Assistance program in Michigan, are hereby ordered to reconsider the class members' Trade Adjustment Assistance claims in light of the revised legal standard declared in this order and in conformity with the revised instructions of the Secretary. The Court's order of July 30, 1989, defined the class as follows:

All individuals whose claims for additional weeks of Trade Readjustment Allowances have been denied after January 1, 1988 because the 210-day period for filing a bona fide application for training was held to expire, despite the fact that they filed an application for training as soon as advised to do so by the Michigan Employment Security Commission.

4. The state defendants will conduct a review of TAA claims to identify the members of the class as soon as possible, and, in any event, will complete the identification of class members within 180 days of the date of this order. Class members whose identity is disclosed to the state defendants in this review will not be required to take any further action to initiate the reconsideration of their TAA claims, but, as determined necessary by the MESC, may be required to provide further information regarding their TAA claims in order to complete the reconsideration process. The state defendants will report every 30 days to plaintiffs' counsel on the progress of their review and reconsiderations. The report will include the number of class members identified to date, the number of class members identified in the most recent thirty day period, the number of identified class members whose claims have been reconsidered to date, and the outcome of the reconsideration (i.e., denied, approved for TRA, approved for training, etc.).

5. In addition to reconsidering the identified class members' claims as ordered in paragraphs 3 and 4 of this Order and by the Secretary's instructions, the state defendants will reconsider any class members' TAA claims within 180 days of the filing of a request for reconsideration by the class member with any local branch office of the Michigan Employment Security Commission or other cooperating state agency. Any such request for reconsideration must be filed within 1 year of the date of this order.

6. The Court finds that the state defendants' review of all TAA claims denied since January 1, 1988, will properly identify all the members of the class and that this order fully vindicates the class members' rights such that further notice to the members of the class is not required by Rule 23(e).


7. Upon reconsideration, in addition to making a determination of good cause as required by paragraph 3, the state defendants will determine that, at the time the class member's TAA claim was initially denied or terminated for late filing of a bona fide application for TAA training, the class member otherwise met the eligibility requirements of the Act and the implementing regulations then in effect. No requirements for documentation or information not in effect at the time the claim was denied or terminated will be required for the reconsiderations made pursuant to this Order and the Secretary's instructions. All reconsideration decisions will be issued as provided for by state UI procedures and be subject to appeal and review in these state UI procedures as provided by Section 239(d) of the Act, 19 U.S.C. §2311(d).

8. If they were otherwise eligible for TAA at the time their TAA claims were denied for late filing under the 210-day rule and the legal standard for good cause set out in paragraph 1 is satisfied in each class member's case, the state defendants will issue a favorable reconsideration decision. A favorable decision can provide for the payment of Trade Readjustment Allowances, the provision of new or renewed TAA training, or other TAA adjustment assistance, as appropriate in the individual circumstances of each case. If necessary to provide the class members with complete relief, the running of any time limits

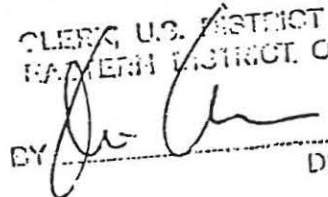
or deadlines which would otherwise apply to their TAA claims will be tolled for the time which passed between the date of the initial denial of their TAA claim and the date upon which their claim is favorably decided on reconsideration under this Order and the instructions of the Secretary.

9. The Secretary will pay the costs of any Trade Readjustment Allowances, TAA training, or other adjustment assistance for which the state defendants find the members of the class eligible. The Secretary will also pay the ~~XXXXX~~ administrative costs incurred by the state defendants in complying with this Order and the Secretary's instructions, as provided by agreement between the Secretary and the state Defendants. *102*

IT IS SO ORDERED.


Hon. George LaPlata
U.S. District Judge

Dated: JUN 12 1991

A TRUE COPY
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
BY  DEPUTY CLERK