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STATE OF WEST VIRGINIA HUMAN RIGHTS COMMISSION

215 PROFESSIONAL BUILDING
1036 QUARRIER STREET
CHARLESTON, WEST VIRGINIA 25301

TELEPHONE: 346-2516

JOHN D. ROCKEFELLER
Governor

HOWARD D. KENNEY
Executive Director

April 6, 1979

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Ranson

Monsanto Company
Nitro
West Virginia 25143

555-2131

Re: ES 2-77, Whittington vs. Monsanto

TO WHOM IT MAY CONCERN:

Herewith please find the Findings of Fact, Conclusions of Law and the Order of the West Virginia Human Rights Commission in the case of Whittington vs. Monsanto, ES 2-77.

Pursuant to Article 5, Section 4 of the West Virginia Administrative Procedures Act [West Virginia Code: Chapter 29A, Article 5, Section 4] any party adversely affected by this final Order may file a petition for judicial review in either the Circuit Court of Kanawha County, West Virginia, or the Circuit Court of the County wherein the petitioner resides or does business, or with the judge of either in vacation, within thirty (30) days of receipt of this Order. If no appeal is filed by any party within thirty (30) days, the Order is deemed final.

Sincerely yours,

Howard D. Kenney
Executive Director

HDK/elm

Enclosure

BEFORE THE WEST VIRGINIA HUMAN RIGHTS COMMISSION

On the Complaint of:

VIOLET WHITTINGTON,

Complainant,

v.

Docket No: ES 2-77

MONSANTO COMPANY,

Respondent.

I.

THE PROCEEDINGS

Pursuant to Notice of Hearing issued to Monsanto Company, hereinafter referred to as Respondent, the above-styled matter came on for hearing on November 9, 1977 in Room A of the Conference Center Complex, State Capitol, Charleston, West Virginia, beginning at 9:00 a.m. . This hearing was presided over by the Honorable Delbert Horstameyer, Commissioner of the West Virginia Human Rights Commission and the Honorable Gail Falk, Hearing Examiner for the West Virginia Human Rights Commission.

The Complainant, Violet Whittington, appeared in person and by her counsel, Susan A. Settle, Esquire and Carter Zerbe, Esquire, Assistant Attorney General, State of West Virginia and the Respondents, Monsanto Company, by its counsel, Martin M. Liebman, Esquire.

It appearing to the panel that notice, as required by law, setting forth the time and place of hearing in the matters to be heard had been duly served upon the Respondent, and that the Respondent, and its counsel, appeared at the appointed time and place, the panel proceeded to hear the evidence.

Thereupon, the evidence, in the form of testimony and exhibits, was taken and made a part of the official record of the proceedings.

At the close of the proceedings, the parties agreed to advise the Hearing Examiner of their respective wishes with regard to the submission of briefs, memoranda, argument, or proposed findings of fact and conclusions of law, following an opportunity to review the completed transcript. Thereafter counsel for the parties tendered to the Hearing Examiner, memoranda, the last of which was tendered on or about June 27, 1973.

Upon full consideration of the entire testimony, evidence, motions, briefs and arguments of counsel, and the Hearing Examiners recommendations, the West Virginia Human Rights Commission makes the following Findings of Fact and Conclusions of Law.

II FINDINGS OF FACT

1. Violet Whittington is a female resident of Nitro, West Virginia.
2. Monsanto Company is a Delaware Corporation which operates a manufacturing plant in Nitro, West Virginia. Monsanto Company employs more than twelve people within the State of West Virginia.
3. At all times pertinent to the facts of this case, the collective bargaining agreement dated October 1, 1975 and identified as Joint Exhibit 1 between Monsanto Company and Local Union 12610 was in effect and, to the extent applicable, governed

certain terms and conditions of employment of Complainant by Respondent. Had Complainant not been discharged, the collective bargaining agreement would have continued to determine the terms and conditions of complainant's employment.

4. Prior to the employment of Complainant and two other women on or about April 19, 1976, no women had been employed as production workers in Respondent's Nitro, West Virginia plant at least since World War II.

5. Complainant was employed by Respondent on April 19, 1976 and initially assigned to the position of yard laborer.

6. At all times pertinent to the facts of this case Complainant was a probationary employee and was not eligible for membership in Local 12610, USWA.

7. Complainant bid for and was assigned to an opening in Santowhite Building 46.

8. Between May 5, 1976 and May 19, 1976, Complainant was in the position of trainee. She received on-the-job training, and was primarily trained by fellow operators. This training was appropriate, and was conducted by the operators management officials thought would be the most experienced and competent.

9. Ms. Whittington's job performance and progress in learning during this period were acceptable or better than acceptable.

10. On May 19, 1976, Complainant was "qualified", which meant that management had certified her as capable of operating the unit. Qualification did not mean she had fully mastered the job. Respondent's qualification of Complainant on May 19, 1976 was not an uncommon company practice for a worker at Complainant's stage in the training process, and was not motivated or influenced by Complainant's sex.

11. Between May 19, 1976 and June 17, 1976, Complainant worked regularly and exhibited better than average job attitude and willingness to work hard. Her progress in learning the operation was average for a person without previous chemical plant experience.

12. On June 17, 1976, Respondent discharged Complainant.

13. Respondent's decision to discharge Complainant was substantially influenced and motivated by bias against women working in the role of chemical production workers.

14. The record does not contain sufficient information to determine with precision the earnings Complainant would have had if she had not been terminated. According to Article XVII of the Collective Bargaining Agreement, Complainant would have been entitled to compensation at the following rates:

June 17, 1976 - September 17, 1976	\$5.82 per hour first shift 5.99 second shift 6.16 third shift
September 17, 1976 - October 1, 1976	\$5.87 per hour first shift 6.04 second shift 6.21 third shift
October 1, 1976 - September 30, 1977	\$6.42 first shift 6.59 second shift 6.76 third shift
October 1, 1977 - September 30, 1978	\$7.02 first shift 7.19 second shift 7.36 third shift

The rate of pay for the period subsequent to September 30, 1978 cannot be determined from the record.

15. In addition, plaintiff would have been entitled to Social Security credit, a pair of shoes worth \$20 in 1977 and 1978, a hospitalization insurance policy worth \$30 per month, and three suits of underclothes and socks every three months.

16. The amount of overtime Complainant would have worked is speculative and not substantial.

17. Complainant has sought other employment, and has not been gainfully employed since June 17, 1976.

III. CONCLUSIONS OF LAW

1. Monsanto Company is an "employee" within the meaning of Section 3 (d), Article 11, Chapter 5 of the Code of West Virginia.

2. Complainant is a "citizen" of West Virginia within the meaning of Section 2, Article 11, Chapter 5 of the Code of West Virginia. On April 19, 1976, Violet Whittington became an "employee" of Respondent Monsanto Company within the meaning of Section 3 (e), Article 11, Chapter 5 of the Code of West Virginia.

3. On July 6, 1976, Complainant filed a verified complaint properly alleging that Respondent had engaged in one or more unlawful discriminatory practices within the meaning of Section 9, Article 11, Chapter 5 of the Code of West Virginia.

4. Said complaint was timely filed within 90 days of the alleged act of discrimination. The West Virginia Human Rights Commission has jurisdiction over the parties and subject matter of this action pursuant to Sections 8, 9 and 10, Article 11, Chapter 5 of the Code of West Virginia.

5. No pattern or practice of discrimination by Respondent has been alleged or proved.

6. Respondent's qualification of Complainant on May 19, 1976 did not unlawfully discriminate against Complainant.

7. On June 17, 1976, Respondent discriminated against Complainant within the meaning of Section 3 (h), Article 11, Chapter 5 of the Code of West Virginia by excluding Complainant by reason of sex from equal opportunities for training, advancement and employment at Monsanto Company.

8. On June 17, 1976, Respondent committed an unlawful discriminatory practice, within the meaning of Section 9 (a), Article 11, Chapter 5 of the Code of West Virginia by discharging Complainant on account of her sex even though Complainant was able and competent to perform the services required.

9. Complainant is entitled by Section 10, Article 11, Chapter 5 of the Code of West Virginia to reinstatement with back pay as a result of Respondent's unlawful discriminatory practice.

10. In computing back pay, no overtime shall be considered, since the amount of overtime Complainant would have worked is speculative and insubstantial.

11. The record contains no evidence of damage to Complainant other than the loss of her job and compensation therefor. In the facts of this case, back pay and reinstatement will adequately compensate Complainant for Respondent's unlawful discriminatory practice.

IV REMEDY

Given a finding of discrimination by the Respondents against the Complainant, the Commission is faced with the responsibility of fashioning an order that will effectuate the purposes and objectives of the Human Rights Act, i.e. "to eliminate all discrimination in employment . . . by virtue of . . . sex . . ." West Virginia Code Sec. 5-11-4.

In construing the Commission's remedial power, the West Virginia Supreme Court of Appeals has stated:

"It is readily discernible that the Legislature, by its recent enactments in the field of human rights, intended to and did provide the Commission the means with which to effectively enforce the law and meaningfully implement the legislative declaration of policy. If our society and government seriously desire to stamp out the evil of unlawful discrimination which is symptomatic of unbridled bigotry, and we believe they do, then it is imperative that the duty of enforcement be accompanied by an effective and meaningful means of enforcement. . ."

State of West Virginia Human Rights Commission v. Pauley, 212 S.E. 2d 77 (W. Va. 1975).

In creating the order, the Commission will be guided by the principles of preventing a recurrence of discrimination by the Respondents in the future, and of making whole the victim of the past discrimination, the Complainant.

Under Section 10 of the West Virginia Human Rights Act, W. Va. Code, Sec. 5-11-10, after a finding that a Respondent has engaged or is engaging in an unlawful discriminatory practice, "the Commission shall issue and cause to be served on such Respondent an order to cease and desist from such unlawful discriminatory practice and (Respondent) to take such affirmative action, including but not limited to . . . upgrading of employees, with or without backpay".

The Supreme Court has held that once discrimination has been found, seniority and backpay relief should be awarded almost automatically, and refused:

"only for reasons which, if applied generally, would not frustrate the essential statutory purposes of eradicating discrimination throughout the economy and making persons whole for injuries suffered through past discrimination."

Moody v. Albermarle Paper Co., 422 U.S. 405 (1975); Franks v. Bowman Transportation Co., _____ U.S. _____, 96S Ct. 1251 (S. Ct. 1972).

Note, that the difficulty of determining specific awards does not defeat consideration of backpay. Robinson v. Lorillard Corporation, 444 F. 2d 791 (4th Cir. 1971), cert. den., 404 U.S. 1006 (1971); Pettway v. American Cast Iron Pipe Company, 494 F. 2d 211 (5th Cir. 1974); International Pulp Sulphite and Papermill Workers v. Minnesota Mining and MFG Company, 304 F. Supp 1284 (D. C. Ind. 1969). Likewise, the Respondents' bad or good intent is irrelevant in determining a backpay award. Moody v. Albemarle Paper Co., supra.

V
ORDER

THEREFORE, pursuant to the above findings of fact, conclusions of law and discussion of remedy it is hereby ordered as follows:

✓ 1. The Respondent, Monsanto Company, its officers, agents, employees, successors, assignees and all persons and organizations in active concert or participation with them are hereby ordered to CEASE and DESIST at all offices, headquarters or places of business or operation of Respondent located in West Virginia from engaging in any employment practices which discriminate against persons on account of their race, color, national origin, religion, sex, age or blindness.

More specifically the Respondent shall:

- ✓ A. Return Complainant to the level of seniority, fringe benefits and rate of pay as if she had been working continuously and satisfactorily in the classification of Operator with the Operating Division since May, 1976.
- ✓ B. Return Complainant to her previous position in Building 46 or be assigned to a different production job with an equal or greater rate of pay.

Said reinstatement shall be the result of joint consultation of Respondent, Local Union 12610 representatives, the West Virginia Human Rights Commission and Complainant, and shall consider among other things, Respondent's present production needs, Complainant's seniority, skills and preferences.

✓ C. Accord Complainant a 90-day training period to learn her initial reinstatement job assignment, and during this period Complainant shall be given adequate and appropriate training by those persons Respondent may designate.

✓ D. Following Complainant's reinstatement, determine her job bidding rights by the collective bargaining agreement based upon an employment date of April 19, 1976.

2. It is further ORDERED that the Respondent shall forthwith adopt and implement the following Affirmative Action Program to eliminate the effects of any discriminatory practices:

A. Within thirty (30) days of the effective date of this ORDER, Respondent shall prepare and distribute a written statement of non-discriminatory policies to all of its present full-time and part-time employees and agents. Such statement shall include, but is not necessarily limited to, a specific statement that neither Respondent, its agents or employees, shall discriminate against any individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment because of race, color, religion, national origin, ancestry, sex, age or blindness, as provided in Chapter 5, Article 11, W. Va. Code, and that no direct or indirect means may be utilized to contravene such policy;

- B. For a period of three (3) years from the effective date of this ORDER, Respondent shall, within five days of hiring any new full-time or part-time employee or agent, provide each such employee or agent with a copy of the statement prepared in compliance with paragraph 2(A) of this ORDER, generally explaining its contents to him or to her and directing him or her to read it;
- C. Within thirty (30) days of the effective date of this ORDER, each present full-time or part-time supervisory employee or agent shall sign a statement indicating that he or she has been advised of the Respondent's non-discriminatory policies, that he or she has read and is familiar with the statement prepared in compliance with paragraph 2(A) of this ORDER, and that he or she is aware that any such supervisory employee or agent who fails or refuses to conform to these policies and practices shall be subject to discipline, including demotion, suspension, or dismissal by the Respondent.
- D. For a period of three (3) years from the effective date of this ORDER, each new full-time or part-time supervisory employee or agent, within thirty days from the commencement of his or her employment, shall sign a statement indicating that he or she has been advised of the Respondent's non-discriminatory policies, that he or she has read and is familiar with the provisions of the statement prepared in compliance with paragraph 2(A) of this ORDER, and that he or she is aware that any such supervisory employee or agent who fails or refuses to conform to these policies and practices shall be subject to discipline, including demotion, suspension or dismissal by the Respondent.

E. As set forth in Chapter 5, Article 11, Section 17, W. Va. Code, the Respondent shall post and maintain in all its offices, or headquarters, in a prominent place where it is clearly visible, the poster of the West Virginia Human Rights Commission advising the public of their rights under the West Virginia Human Rights Act.

F. All future advertising by the Respondent, through whatever medium, shall contain the phrase "Equal Opportunity Employer." The Respondent shall not reduce, diminish or change the character of its advertising to avoid compliance with this requirement.

3. It is further ORDERED that Respondent shall pay the Complainant back pay from June 17, 1976 to the effective date of this order, as compensation for the loss of wages suffered by Complainant as a result of Respondent's discriminatory practices. The amount of back pay is to be computed as follows:

A. Back Pay:*

Source:

Article XVII - Collective Bargaining Agreement between Monsanto Company and United Steelworkers of America on behalf of Local Union 12610.

- (1) Period: June 17, 1976 - September 16, 1976
Rates of Pay \$5.82 @ hour first shift = \$232.80 weekly
5.99 @ hour second shift = 239.60 weekly
6.16 @ hour third shift = 246.40 weekly

Amount Due: \$3,108.00

- (2) Period: September 17, 1976 - October 1, 1976
Rates of Pay \$6.04 @ hour second shift = \$241.60 weekly
6.21 @ hour third shift = 248.40 weekly

Amount Due: \$ 490.00

- (3) Period: October 1, 1976 - September 30, 1977
Rates of Pay \$6.42 @ hour first shift = \$256.80 weekly
6.59 @ hour second shift - 263.60 weekly
6.76 @ hour third shift - 270.40 weekly

Amount Due: \$13,443.60

* (1) Source: Letter of August 4, 1978 from Robert W. Howard, Superintendent, Monsanto Industrial Chemical Company to Staff and Union

- (4) Period: October 1, 1977 - September 30, 1978
Rates of Pay: \$7.02 @ hour first shift = \$280.80 weekly
7.19 @ hour second shift = 287.60 weekly
7.36 @ hour third shift - 294.40 weekly

Amount Due: \$14,948.40

- (5) Period: October 1, 1978 - March 8, 1979 *(1)
Rates of Pay \$7.58 @ hour first shift = \$304.00 weekly
7.75 @ hour second shift = 310.00 weekly
8.00 @ hour third shift - 320.00 weekly

Amount Due: \$ 7,174.00

Back Pay Computations:

(1) from June 17, 1976 to September 16, 1976	\$ 3,108.00
(2) from September 17, 1976 to October 1, 1976	490.00
(3) from October 1, 1976 to September 30, 1977	13,443.60
(4) from October 1, 1977 to September 30, 1978	14,948.40
(5) from October 1, 1978 to March 8, 1979	7,174.00
TOTAL	<u>\$39,164.00</u>

- (6) It is further Ordered that Respondent shall pay Complainant back pay from March 8, 1979 (the ending date of paragraph (3) (5) computation) until Complainant is reinstated. Said pay shall be computed in accordance with formulas set forth in the Collective Bargaining Agreement(s) by the Monsanto Company and the United Steel Workers of America in behalf of Local Union 12610.

B. Shoe Allowance: for 1977 and 1978
value of two pairs @ \$20.00 \$ 40.00

C. Hospitalization insurance policy
value \$30.00 @ month
for July 1977 to February 1979 (20 months x \$30) \$ 600.00

D. Clothing Allowance (3 sets of underclothes and socks every three months) 27 sets of underwear/socks

Total Amount of Award Due to Complainant \$39,804.00

- E. Respondent is FURTHER ORDERED to withhold from the backpay granted to Complainant Social Security and credit Complainant's earning records accordingly for the period June 17, 1976 to the effective date of this order.

Interest on said back pay shall be computed at a rate of six per cent (6%) annum beginning on June 17, 1976 and continuing up and until the date such back pay is actually paid to the Complainant. Payment of said back pay is to be made to the Complainant by sending a check to the West Virginia Human Rights Commission made payable to the order of Violet Whittington for the aforesaid amount of back pay. The Commission shall then forward the check to the Complainant.

4. It is further ORDERED that within ninety (90) days of the effective date of this ORDER, and thereafter within one hundred twenty (120) day intervals for a period of three (3) years, a responsible officer or representative of the Respondent shall file with the Commission a sworn statement affirming that Respondent has fully and completely complied with this ORDER. Such sworn statements shall be accompanied by a report which includes the following:

- A. Copies of all objective guidelines established as required in paragraphs 1(A) and 1(C) of this ORDER.
- B. Verified statements that minutes were taken at any supervisory meeting held in such period as defined in paragraph 1(B) of this ORDER.
- C. Copies of all statements of correspondence as are required in paragraphs 2(A), (B), (C), (D), and (E) of this ORDER.
- D. Copies of all advertising made through any media, and the dates of its appearance.

It is so ORDERED.

ENTERED THIS 29 DAY OF March, 1979.

Russell Van Cleve
Russell Van Cleve, Chairperson
West Virginia Human Rights Commission

VIOLET WHITTINGTON VS. MONSANTO COMPANY

ES-2-77

I, Violet Whittington, have received in full the sum of \$46,860.55, less legal deductions, in full and final settlement of Paragraph 3 of Section V of the Final Order as issued by the West Virginia Human Rights Commission in the matter of Violet Whittington vs. Monsanto Company, Case No. ES-2-77.

5/31/79

Date

Violet Whittington
Violet Whittington
Complainant

We the undersigned do hereby agree that all requirements of Paragraph 1 of Section V of the Final Order as issued by the West Virginia Human Rights Commission in the matter of Violet Whittington vs. Monsanto Company Case No. ES-2-77, have been fully complied with.

Merle E. Mahler
Merle E. Mahler
Monsanto Company
Respondent

Violet Whittington
Violet Whittington
Complainant

Paul L. Shaffer
Paul L. Shaffer
President, Local 12610
USWA

May 31, 1979

451284E-14 016 32000-01203

EXACTLY 53 AND 11 CTS

Handwritten signature

THE CHASE NATIONAL BANK
100 N. BROAD ST. PHOENIX, ARIZONA 85001

DATE MAY 25, 1979

CHECK NUMBER 947910

VIOLLET WHITTINGTON

Monsanto WORKING FUND ACCOUNT
NITRO, WEST VIRGINIA 25143

PAY TO THE ORDER OF

11,551.45

AMOUNT OF CHECK

APPROVED BY

APPROVED BY

INVOICE DATE	INVOICE NUMBER	MEMO	AMOUNT	NET
		WVHRC Docket ES 2-77	600.00	11,551.45
		Interest on back pay	40.00	
		Shoe Allowance	3,515.11	
		Hospitalization Allowance		

Monsanto
NITRO, WEST VIRGINIA 25143

Monsanto

MONSANTO COMPANY
NITRO WEST VIRGINIA
WAGE PAYROLL ACCOUNT

Monsanto

WAGE PAYROLL ACCOUNT
MONSANTO COMPANY, NITRO WEST VIRGINIA

106852

NO. 436
518

EARNINGS	1976	1977	1978	1979	TOTAL	YEAR TO DATE
Viollet V. Whittington	7,258.90	13,519.80	5310.73	6618.01	42,707.44	
204	424.65	790.91	926.30	405.68	2,547.54	
TOTAL EARNINGS						
TOTAL DEDUCTIONS						
WVHRC						
DOCKET						
ES2-77						
NET PAY						

DATE 5/29/79

PAY TO THE ORDER OF Viollet V. Whittington

SEQUENCE NUMBER 204

AMOUNT \$4,665.40

BANK OF NITRO, NITRO WEST VIRGINIA
THIS CHECK WILL NOT BE PAID UNLESS PRESENTED WITHIN 90 DAYS

106852 05150445 1008447

KEEP THIS STUB FOR YOUR RECORDS

FOR PERIOD ENDING

Handwritten signature

Hittington vs Monsanto

ORDER

THEREFORE, pursuant to the above findings of fact, conclusions of law and discussion of remedy it is hereby ordered as follows:

1. The Respondent, Monsanto Company, its officers, agents, employees, successors, assignees and all persons and organizations in active concert or participation with them are hereby ordered to CEASE and DESIST at all offices, headquarters or places of business or operation of Respondent located in West Virginia from engaging in any employment practices which discriminate against persons on account of their race, color, national origin, religion, sex, age or blindness.

More specifically the Respondent shall:

A. Return Complainant to the level of seniority, fringe benefits and rate of pay as if she had been working continuously and satisfactorily in the classification of Operator with the Operating Division since May, 1976.

B. Return Complainant to her previous position in Building 46 or be assigned to a different production job with an equal or greater rate of pay.

Said reinstatement shall be the result of joint consultation of Respondent, Local Union 12610 representatives, the West Virginia Human Rights Commission and Complainant, and shall consider among other things, Respondent's present production needs, Complainant's seniority, skills and preferences.

C. Accord Complainant a 90-day training period to learn her initial reinstatement job assignment, and during this period Complainant shall be given adequate and appropriate training by those persons Respondent may designate.

D. Following Complainant's reinstatement, determine her job bidding rights by the collective bargaining agreement based upon an employment date of April 19, 1976.

2. It is further ORDERED that the Respondent shall forthwith adopt and implement the following Affirmative Action Program to eliminate the effects of any discriminatory practices:

A. Within thirty (30) days of the effective date of this ORDER, Respondent shall prepare and distribute a written statement of non-discriminatory policies to all of its present full-time and part-time employees and agents. Such statement shall include, but is not necessarily limited to, a specific statement that neither Respondent, its agents or employees, shall discriminate against any individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment because of race, color, religion, national origin, ancestry, sex, age or blindness, as provided in Chapter 5, Article 11, N. Va. Code, and that no direct or indirect means may be utilized to contravene such policy;

B. For a period of three (3) years from the effective date of this ORDER, Respondent shall, within five days of hiring any new full-time or part-time employee or agent, provide each such employee or agent with a copy of the statement prepared in compliance with paragraph 2(A) of this ORDER, generally explaining its contents to him or to her and directing him or her to read it;

- C. Within thirty (30) days of the effective date of this ORDER, each present full-time or part-time supervisory employee or agent shall sign a statement indicating that he or she has been advised of the Respondent's non-discriminatory policies, that he or she has read and is familiar with the statement prepared in compliance with paragraph 2(A) of this ORDER, and that he or she is aware that any such supervisory employee or agent who fails or refuses to conform to these policies and practices shall be subject to discipline, including demotion, suspension, or dismissal by the Respondent.
- D. For a period of three (3) years from the effective date of this ORDER, each new full-time or part-time supervisory employee or agent, within thirty days from the commencement of his or her employment, shall sign a statement indicating that he or she has been advised of the Respondent's non-discriminatory policies, that he or she has read and is familiar with the provisions of the statement prepared in compliance with paragraph 2(A) of this ORDER, and that he or she is aware that any such supervisory employee or agent who fails or refuses to conform to these policies and practices shall be subject to discipline, including demotion, suspension or dismissal by the Respondent.
- E. As set forth in Chapter 5, Article 11, Section 17, W. Va. Code, the Respondent shall post and maintain in all its offices, or headquarters, in a prominent place where it is clearly visible, the poster of the West Virginia Human Rights Commission advising the public of their rights under the West Virginia Human Rights Act.

F. All future advertising by the Respondent, through whatever medium, shall contain the phrase "Equal Opportunity Employer." The Respondent shall not reduce, diminish or change the character of its advertising to avoid compliance with this requirement.

3. It is further ORDERED that Respondent shall pay the Complainant backpay from June 17, 1976 to the effective date of this order, as compensation for the loss of wages suffered by Complainant as a result of Respondent's discriminatory practices. The amount of backpay is to be computed as follows:

A. Back Pay:*

Source:

Article XVII - Collective Bargaining Agreement^(s) between Monsanto Company and United Steelworkers of America on behalf of Local Union 12610.

(1) Period: June 17, 1976 - September 16, 1976
Rates of Pay \$5.82 @ hour first shift = \$232.80 weekly
\$5.99 @ hour second shift = 239.60 weekly
\$6.16 @ hour third shift = 246.40 weekly

Amount Due: \$3,108.00

(2) Period: September 17, 1976 - October 1, 1976
Rates of Pay \$6.04 @ second shift = \$241.60 weekly
\$6.71 @ third shift = 248.40 weekly

Amount Due: \$ 490.00

Period: October 1, 1976 - September 30, 1977
Rates of Pay \$6.42 @ hour first shift = \$256.80 weekly
\$6.59 @ hour second shift = 263.60 weekly
\$6.76 @ hour third shift = 270.40 weekly

Amount Due: \$13,443.60

(4) Period: October 1, 1977 - September 30, 1978
Rates of Pay: \$7.02 @ hour first shift = \$280.80 weekly
\$7.19 @ hour second shift = 287.60 weekly
\$7.36 @ hour third shift = 294.40 weekly

Amount Due: \$14,948.40

(5) Period: October 1, 1978 - March 8, 1979 *(1)
 Rates of Pay \$7.58 @ hour first shift = \$304.00 weekly
 7.75 @ hour second shift = 310.00 weekly
 8.00 @ hour third shift = 320.00 weekly

Amount Due: \$7,174.00

Total Back Pay Computation:

(1) from June 17, 1976 to September 16, 1976	\$ 3,108.00
(2) from September 17, 1976 to October 1, 1976	490.00
(3) from October 1, 1976 to September 30, 1977	13,443.60
(4) from October 1, 1977 to September 30, 1978	14,948.40
(5) from October 1, 1978 to March 8, 1979	<u>7,174.00</u>
TOTAL	<u>\$39,164.00</u>

*(1)

Source: Letter of August 4, 1978 from Robert W. Howard, Superintendent, Personnel, Monsanto Industrial Chemical Company to Staff and Union Representatives of United Steelworkers of America, Larry F. Ratliff and Omar Cunningham, respectively.

B. Shoe allowance: for 1977 and 1978
 value of two pairs @ \$20.00 \$ 40.00

C. Hospitalization insurance policy
 value \$30.00 @ month
 for July 1977 to February 1979 (20 months x \$30) \$ 600.00

D. Clothing Allowance (3 sets of underclothes and
 socks every three months) 27 sets of underwear/socks

Total Amount of Award Due to Complainant \$39,804.00

E. ~~Respondent is~~ **FURTHER ORDERED** to withhold from the backpay granted to Complainant Social Security and credit Complainant's earning records accordingly for the period June 17, 1976 to the effective date of this order.

F. In the event that the parties are unable to agree upon the amount of back pay to be paid pursuant to this order, the case shall be remanded to the hearing examiner for additional findings of fact on the amount of back pay.

Interest on said back pay shall be computed at a rate of six per cent (6%) annum beginning on June 17, 1976 and continuing up and until the date such back pay is actually paid to the Complainant. Payment of said back pay is to be made to the Complainant by sending a check to the West Virginia Human Rights Commission made payable to the order of Violet Whittington for the aforesaid amount of back pay. The Commission shall

then forward the check to the Complainant.

4. It is further ORDERED that within ninety (90) days of the effective date of this ORDER, and thereafter within one hundred twenty (120) day intervals for a period of three (3) years, a responsible officer or representative of the Respondent shall file with the Commission a sworn statement affirming that Respondent has fully and completely complied with this ORDER. Such sworn statements shall be accompanied by a report which includes the following:

- A. Copies of all objective guidelines established as required in paragraphs 1(A) and 1(C) of this ORDER.
- B. Verified statements that minutes were taken at any supervisory meeting held in such period as defined in paragraph 1(B) of this ORDER.
- C. Copies of all statements of correspondence as are required in paragraphs 2(A), (B), (C), (D), and (E) of this ORDER.
- D. Copies of all advertising made through any media, and the dates of its appearance.

It is so ORDERED.

ENTERED THIS _____ DAY OF _____, 1979

Russell Van Cleve, Chairperson
West Virginia Human Rights Commission

VIOLET WHITTINGTON VS. MONSANTO COMPANY

ES-2-77

I, Violet Whittington, have received in full the sum of \$46,860.55, less legal deductions, in full and final settlement of Paragraph 3 of Section V of the Final Order as issued by the West Virginia Human Rights Commission in the matter of Violet Whittington vs. Monsanto Company, Case No. ES-2-77.

5/31/79

Date

Violet Whittington
Violet Whittington
Complainant

We the undersigned do hereby agree that all requirements of Paragraph 1 of Section V of the Final Order as issued by the West Virginia Human Rights Commission in the matter of Violet Whittington vs. Monsanto Company Case No. ES-2-77, have been fully complied with.

Merle E. Mahler
Merle E. Mahler
Monsanto Company
Respondent

Violet Whittington
Violet Whittington
Complainant

Paul L. Shaffer
Paul L. Shaffer
President, Local 12610
USWA

May 31, 1979

VIOLET WHITTINGTON VS. MONSANTO COMPANY

ES-2-77

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5/31/79
Date

Violet Whittington
Violet Whittington
Complainant

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Merle E. Mahler
Merle E. Mahler
Monsanto Company
Respondent

Violet Whittington
Violet Whittington
Complainant

Paul L. Shaffer
Paul L. Shaffer
President, Local 12610
USWA

May 31, 1979

⑆512824⑆⑆016 :⑆000⑆0120⑆

EXACTLY 15 AND 15 CTS

THE CHASE MANHATTAN BANK
1 CHASE MANHATTAN PLAZA 100 N. ZEEB ST. NEW YORK, N.Y. 10019

Handwritten signature

DATE May 25, 1979
\$4,153.11

CHECK NUMBER 016746

Monsanto WORKING FUND ACCOUNT
NITRO, WEST VIRGINIA 25142

MONSANTO COMPANY

VIOLLET WHITTINGTON

PAY TO THE ORDER OF

APPROVED BY _____ AMOUNT OF CHECK \$4,153.11

MEMO	AMOUNT	NET
WVHRC Docket ES 2-77	600.00	3,513.11
Interest on back pay	40.00	
Shoe Allowance		
Hospitalization Allowance		
		TT*EST*4\$ 4,153.11

MONSANTO COMPANY
NITRO, WEST VIRGINIA
WAGE PAYROLL ACCOUNT

Monsanto

MONSANTO COMPANY
NITRO, WEST VIRGINIA
WAGE PAYROLL ACCOUNT

Monsanto

WAGE PAYROLL ACCOUNT
MONSANTO COMPANY, NITRO, WEST VIRGINIA

106852

89-144-515

EARNINGS	HOURS QUITS	1976		1977		1978		1979		TOTAL	YEAR TO DATE	
		1976	1977	1978	1979	1979	1979	gross pay	net pay			
Violet V. Whittington	204	7,258.90	13,519.80	15,310.73	6618.01	12,707.44	2,547.54	3,248.90	2,245.60	24,665.40		
TOTAL EARNINGS		424.65	790.91	926.30	405.68	2,547.54	3,248.90	2,245.60	24,665.40			
TOTAL DEDUCTIONS												
NET PAY												

DATE 5/29/79

PAY TO THE ORDER OF Violet V. Whittington

SEQUENCE NUMBER 204

AMOUNT \$4,665.40

⑆106852⑆ ⑆0515⑆0145⑆ 100⑆844⑆7⑆

Handwritten signature

KEEP THIS STUB FOR YOUR RECORDS

FOR PERIOD ENDING

EMPLOYEE NO.

106852

BANK OF NITRO, NITRO, WEST VIRGINIA
THIS CHECK WILL NOT BE PAID UNLESS PRESENTED WITHIN 90 DAYS