65 FLRA No. 47

UNITED STATES
DEPARTMENT OF VETERANS AFFAIRS
VETERANS AFFAIRS REGIONAL COUNSEL
WINSTON-SALEM, NORTH CAROLINA
(Agency)

and

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES
LOCAL 1738
(Union)

0-AR-4660

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DECISION

October 29, 2010

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Before the Authority: Carol Waller Pope, Chairman, and Thomas M. Beck and Ernest DuBester, Members[1]

I. Statement of the Case

This matter is before the Authority on exceptions to an award of Arbitrator Robert G. Williams filed by the Agency under § 7122(a) of the Federal Service Labor-Management Relations Statute (the Statute) and part 2425 of the Authority's Regulations. The Union filed an opposition to the Agency's exceptions.

The Arbitrator found that the Agency violated the parties' agreement when it improperly placed the grievant on a deficient performance improvement plan (PIP). He directed the Agency to expunge the PIP from the grievant's record, offer her an opportunity to attend a new training program, and provide her with a trainee position description (PD) and performance standards. For the following reasons, we deny the Agency's exceptions.

II. Background and Arbitrator's Award

The grievant was hired as a GS-9 Rating Veteran Service Representative (RVSR) and immediately began an eight-month training program. Award at 2-3. The Agency established "Training Benchmarks" to "provide clear markers for evaluation during a RVSR's formal training." *Id.* at 4. The grievant did not meet the "Training Benchmarks" at any point during the training program, but was nevertheless rated as "Fully Successful" at the end of that program. *Id.* at 11-13.

After starting work as a trained RVSR, the grievant failed to meet the performance standards for the position. *Id.* at 14-16. She received a warning of unacceptable performance and was placed on a PIP. *Id.* at 18. As a result, the Union filed a grievance that was unresolved and submitted to arbitration. *Id.* at 1-2. At arbitration, the Arbitrator framed the pertinent issue as: "was the [g]rievant properly placed on a valid [PIP] and, if not, what shall be the remedy?"[2] *Id.* at 2.

As an initial matter, the Arbitrator found that the grievant was hired as an "RVSR Trainee." *Id.* at 45. He also found that the grievant received a copy of the PD and performance standards applicable to trained RVSRs, but "apparently did not receive copies of [the] 'Training Benchmarks.'" *Id.* He determined that "[t]he Agency violated the [agreement] by failing to provide trainee [PDs] and standards that would lead to the development of trainees as qualified RVSRs." *Id.* at 49.

In addition, the Arbitrator found that the PIP was a "probationary period [that was] nothing more than a paid suspension" and a "disciplinary action as a prelude to an adverse action." *Id.* at 53. Further, he determined that the Agency's placement of the grievant on a PIP violated Article 26 of the parties' agreement in two respects.[3] First, he found that the PIP was deficient because it did not include "the causes of unacceptable performance and the remedial actions for correcting deficiencies." *Id.* at 54. Second, he determined that even if the PIP itself was not deficient, the Agency improperly placed the grievant on a PIP because "[t]he root of [her] inability to meet standards [was] found in the training, or lack of [a] training program." *Id.*

1. Member Beck's dissenting opinion is set forth at the end of this decision.

2. The Arbitrator also resolved an issue regarding whether the grievant was improperly denied promotion to the GS-10 level. Award at 2. As there are no exceptions regarding the Arbitrator's resolution of that issue, we do not address it further.

3. The pertinent provisions of Article 26 of the parties' agreement are set forth *infra*.

As remedies, the Arbitrator directed the Agency to expunge the PIP from the grievant's record and "provide the [g]rievant with an opportunity to attend an RVSR training program with a trainee [PD], performance standards and progress reviews that, if completed at the 'Fully Successful' level, will result in a trainee qualified to perform as a 'Fully Successful' RVSR." *Id.* at 57-58.

III. Positions of the Parties

A. Agency's Exceptions

The Agency argues that the award is based on nonfacts because the Arbitrator erred by finding that the Agency did not provide the grievant with a copy of the "Training Benchmarks" or rely on them during training. Exceptions at 1. In this connection, the Agency asserts that the grievant testified that she received the benchmarks, and that the record demonstrates that she initialed a copy of them. *Id.* at 26.

The Agency also argues that the Arbitrator's finding that the Agency violated the parties' agreement by failing to provide the grievant with a trainee PD and performance standards fails to draw its essence from Articles 9 and 26 of the parties' agreement and demonstrates that the Arbitrator exceeded his authority. *Id.* at 24-25, 27-28. In this regard, the Agency contends that Article 9 requires the Agency to provide RVSR PDs, but not trainee PDs.[4] Moreover, the Agency asserts that: (1) the grievant received a copy of the RVSR PD at the time of her assignment; and (2) even if Article 9 obligated the Agency to issue a trainee PD, the grievant never requested a copy of it as required by the provision. *Id.* at 28. With respect to Article 26, the Agency asserts that the grievant's appraisal period commenced when she entered the workforce as a fully trained RVSR, and that "[n]othing in the [parties' agreement] required the Agency to issue the [g]rievant her performance standards prior to the beginning of her appraisal period." *Id.* at 27.

The Agency further asserts that the award fails to draw its essence from Article 26 of the agreement insofar as the Arbitrator found that: (1) the PIP was deficient because it did not include "the causes of unacceptable performance and the remedial actions for correcting the deficiencies"; and (2) even if the PIP itself was not deficient, the Agency's placement of the grievant on a PIP was improper. *Id.* at 30-31, 34-36. In this connection, the Agency asserts that the grievant's PIP met the requirements set forth in Article 26 and that because the grievant failed to meet productivity performance standards from the beginning of her appraisal period, she was properly placed on a PIP. *Id.* at 31, 35-36.

Further, the Agency argues that the remedy -- directing the Agency to offer the grievant an opportunity to attend a new training program including a trainee PD and performance standards -- fails to draw its essence from the parties' agreement and demonstrates that the Arbitrator exceeded his authority. *Id.* at 25, 31-33. In this regard, the Agency contends that the remedy exceeds the relief specifically requested by the Union and is "not available under the [agreement] or any applicable regulations and/or policies." *Id.* at 31-33.

Finally, the Agency contends that the award is contrary to law. As an initial matter, the Agency asserts that arbitrators are bound by Merit Systems Protection Board (MSPB) precedent, that an agency "is entitled to use its managerial discretion in establishing the performance standards that measure an employee's performance[,]" and that the MSPB defers to an "agency's judgment concerning the use of performance deadlines and numerical measurements for a professional employee." Exceptions at 24. The Agency further contends that the award conflicts with MSPB precedent holding that agencies are not required to provide training during a PIP. *Id.* at 29. For support, the Agency cites *Daniel v. Department of Veterans Affairs*, 223 Fed. Appx. 986, 990 (Fed. Cir. 2007) (nonprecedential); *Thomas v. Department of Defense*, 95 M.S.P.R. 123 (2003), *aff'd* 117 Fed. Appx. 722 (Fed. Cir. 2004); *Goodwin v. Department of the Air Force*, 75 M.S.P.R. 204, 207 (1997); *Cornelius v. Nutt*, 472 U.S. 648 (1985); and *Siegelman v. Dep't of Hous. & Urban Dev.*, 14 M.S.P.R. 326 (1983). Finally, the Agency claims that the Arbitrator's finding that the PIP was "nothing more than a paid suspension" and a "disciplinary action as a prelude to an adverse action" is inconsistent with Title 5, Chapter 43 of the U.S. Code.[5] *Id.* at 30. In this regard, the Agency asserts that "performance actions taken under Chapter 43 are not adverse actions at all, but are considered performance based actions, as opposed to actions taken under Chapter 75." *Id.*[6]

4. The relevant wording of Article 9 of the parties' agreement is set forth *infra*.

5. Title 5, Chapter 43 of the U.S. Code is discussed further below.

6. The Agency also challenges the credibility of a portion of the grievant's testimony. Exceptions at 36. However, as

B. Union's Opposition

In response to the Agency's nonfact exception, the Union asserts that the Arbitrator's finding concerning whether the grievant received a copy of the "Training Benchmarks" is not a central fact underlying the award. Opp'n. at 10. Next, the Union argues that the Arbitrator did not exceed his authority because the award is "very narrow and limited" to the grievant and the Arbitrator has "broad latitude to determine how to implement a meaningful remedy." *Id.* at 10-11. Finally, the Union argues that the Agency's essence exceptions are "essentially a rehash of the arguments it made to the [A]rbitrator and that were properly rejected." *Id.* at 3-4.

IV. Analysis and Conclusions

A. The award is not based on nonfacts.

To establish that an award is based on a nonfact, the appealing party must show that a central fact underlying the award is clearly erroneous, but for which the arbitrator would have reached a different result. *See NFFE, Local 1984*, 56 FLRA 38, 41 (2000). However, the Authority will not find an award deficient on the basis of an arbitrator's determination of any factual matter that the parties disputed at arbitration. *See id.*

The Agency claims that the Arbitrator erred by finding that the Agency did not provide the grievant with a copy of the "Training Benchmarks" or use them during training. Exceptions at 1. However, the Arbitrator found that the Agency violated the parties' agreement in several respects, such as failing to provide trainee PDs and issuing a deficient PIP. Thus, even assuming that the Arbitrator made the two alleged factual errors, the Agency has failed to show that the Arbitrator would have reached a different result but for those errors. As such, the Agency has not demonstrated that the award is based on nonfacts, and we deny the exception.

B. The Arbitrator did not exceed his authority.

Arbitrators exceed their authority when they fail to resolve an issue submitted to arbitration, resolve an issue not submitted to arbitration, disregard specific limitations on their authority, or award relief to persons who are not encompassed within the grievance. *See U.S. Dep't of the Navy, Naval Base, Norfolk, Va.*, 51 FLRA 305, 307-08 (1995) (*Dep't of the Navy*). In the absence of a stipulated issue, an arbitrator's formulation of the issues is accorded substantial deference. *See AFGE, Local 933*, 58 FLRA 480, 482 (2003) (*AFGE*). An arbitrator does not exceed his or her authority where the award is directly responsive to the formulated issues. *See, e.g., AFGE, Local 4044, Council of Prisons Local 33*, 57 FLRA 98, 99 (2001). In addition, arbitrators have broad discretion to fashion remedies. *See, e.g., U.S. Dep't of the Air Force, Okla. City Air Logistics Ctr., Tinker Air Force Base, Okla.*, 47 FLRA 98, 101 (1993) (*Tinker AFB).*

The Agency argues that that the Arbitrator exceeded his authority by finding that the Agency's failure to provide trainee PDs and performance standards violated the parties' agreement. Exceptions at 24-25. However, the Agency does not argue that the Arbitrator resolved an issue not submitted to arbitration, disregarded specific limitations on his authority, or awarded relief to persons not encompassed in the grievance in making that finding. *See Dep't of the Navy*, 51 FLRA at 307-08. As the Agency fails to provide any support for its claim, we deny this exception as a bare assertion.[7] *See, e.g., U.S. Dep't of Homeland Sec., U.S. Customs & Border Prot., Port of Seattle, Seattle, Wash.*, 60 FLRA 490, 492 n.7 (2004).

The Agency also argues that the Arbitrator exceeded his authority by directing the Agency to provide the grievant with an opportunity to attend a training program, and to provide her with a trainee PD and performance standards. In this connection, the Arbitrator framed the relevant issue as: "Was the [g]rievant properly placed on a valid performance improvement plan, and if not, what shall be the remedy?" Award at 2. The ordered remedy is directly related to the framed issue of an appropriate remedy for the Agency's improper placement of the grievant on a PIP. With regard to the Agency's claim that the Union did not request these remedies, the Authority has held that "the fact that a [party] seeks a particular remedy does not, in and of itself, constrain the arbitrator's ability to fashion what he or she deems appropriate to any violation that is found." *See Dep't of the Air Force, Scott Air Force Base, Ill.*, 51 FLRA 675, 687 (1995). Thus, the Agency's argument is unpersuasive. Further, the Agency does not argue that the Arbitrator resolved an issue not submitted to arbitration, disregarded specific limitations on his authority, or awarded relief to

the Agency does not challenge any particular arbitral findings, we do not address the argument further.

7. We note that the Agency does argue that the Arbitrator's finding fails to draw its essence from the parties' agreement, as discussed below.

persons who are not encompassed within the grievance.

For the foregoing reasons, the Agency has not demonstrated that the Arbitrator exceeded his authority, and we deny the exception.

C. The award draws its essence from the parties' agreement.

In reviewing an arbitrator's interpretation of a collective bargaining agreement, the Authority applies the deferential standard that federal courts use in reviewing arbitration awards in the private sector. *See* 5 U.S.C. § 7122(a)(2); *AFGE, Council 220*, 54 FLRA 156, 159 (1998). Under this standard, the Authority will find that an arbitration award is deficient as failing to draw its essence from the collective bargaining agreement when the appealing party establishes that the award: (1) cannot in any rational way be derived from the agreement; (2) is so unfounded in reason and fact and so unconnected with the wording and purposes of the collective bargaining agreement as to manifest an infidelity to the obligation of the arbitrator; (3) does not represent a plausible interpretation of the agreement; or (4) evidences a manifest disregard of the agreement. *U.S. Dep't of Labor (OSHA)*, 34 FLRA 573, 575 (1990). The Authority and the courts defer to arbitrators in this context "because it is the arbitrator's construction of the agreement for which the parties have bargained." *Id*. at 576. Where an arbitrator interprets an agreement as imposing a particular requirement, the fact that the agreement is silent with respect to that requirement does not, by itself, demonstrate that the arbitrator's award fails to draw its essence from the agreement. *See, e.g., U.S. Dep't of Veterans Affairs, Ralph H. Johnson Med. Ctr, Charleston, S.C.*, 58 FLRA 413, 414 (2003) (*Johnson Med. Ctr.*); *U.S. Dep't of Def., Educ. Activity, Arlington, Va*., 56 FLRA 901, 905-06 (2000) *(DOD)*; *U.S. Dep't of the Treasury, IRS, Wash., D.C.*, 56 FLRA 393, 394-95 (2000) (*IRS*); *U.S. Dep't of the Air Force, Ogden Air Logistics Ctr., Hill Air Force Base, Utah*, 35 FLRA 1267, 1271 (1990) (*Hill AFB*).

The Agency claims that the award fails to draw its essence from Articles 9 and 26 of the parties' agreement because these provisions do not require the Agency to provide: (1) trainee PDs; (2) trainee performance standards; and (3) "the causes of unacceptable performance and the remedial actions for correcting deficiencies" in a PIP.[8] Exceptions at 27-28, 30-31. However, even assuming that the agreement does not specifically impose these requirements, the fact that the agreement is silent with respect to these requirements does not demonstrate that the arbitrator's award fails to draw its essence from the agreement. *See Johnson Med. Ctr.*, 58 FLRA at 414; *DOD*, 56 FLRA at 905-06; *IRS*, 56 FLRA at 394-95; *Hill AFB*, 35 FLRA at 1271. The Agency also argues that the award conflicts with Article 9 because the grievant did not request a copy of a trainee PD. Exceptions at 28. However, the fact that Article 9 states that the Agency must provide a PD "at the time of assignment *and* upon request" does not show that the Arbitrator's finding that the Agency was required to provide the grievant with a trainee PD at the time of her assignment to that position, even absent a request, is irrational, unfounded, implausible, or in manifest disregard of the parties' agreement. Award at 28 (emphasis added). Accordingly, we deny the exception.

The Agency further contends that the award fails to draw its essence from Article 26 insofar as the Arbitrator found that the Agency improperly placed the grievant on a PIP.[9] Exceptions at 34-36. In this

8. Article 9 of the parties' agreement states, in pertinent part: "Employees will be furnished a current, accurate copy of the description of the position to which assigned at the time of assignment and upon request." Award at 28. Article 26, Section 5 provides, in pertinent part: "The rating official will establish and communicate in writing to employee(s) . . . performance standards, at the beginning of the appraisal period[.]" *Id.* at 32. Article 26, Section 10 of the parties' agreement states, in pertinent part:

> The PIP will identify the employee's specific performance deficiencies, the successful level of performance, the action(s) that must be taken by the employee to improve to the successful level of performance, the methods that will be employed to measure the improvement, and any provisions for counseling, training, or other appropriate assistance.

Id. at 36.

9. Article 26, Section 2 of the parties' agreement provides, in relevant part: "Appraisal period [is] [t]he established period of time for which performance will be reviewed and a rating of record will be prepared." *Id.* at 29. Article 26, Section 7 states, in pertinent part: "The performance appraisal process is used for making a basic determination that an employee is meeting their job requirements. It is also the basis for making certain personnel-related decisions." *Id.* at 34. Article 26, Section 8 provides, in

connection, the Agency asserts that because the grievant's supervisor determined that she was not meeting productivity standards from the beginning of her appraisal period, she was properly placed on the PIP. However, the Arbitrator determined that the grievant's performance problems were caused by circumstances outside of her control -- inadequate training -- and, therefore, the Agency's issuance of a PIP violated Article 26 of the agreement. Award at 54. The Agency provides no basis for finding that the Arbitrator's determination is irrational, unfounded, implausible, or in manifest disregard of the parties' agreement. Accordingly, we deny the exception.

The Agency also asserts that the Arbitrator's remedy requiring the Agency to offer the grievant an opportunity to attend a new training program and provide her with a trainee PD and performance standards fails to draw its essence from the parties' agreement because the agreement does not provide for such relief. As noted previously, arbitrators enjoy broad discretion in fashioning remedies. *See Tinker AFB*, 47 FLRA at 101. Moreover, the Agency does not cite any provision of the parties' agreement that addresses the remedies that are available in arbitration cases. *See U.S. Dep't of Veterans Affairs Med. Ctr., Detroit, Mich.*, 60 FLRA 306, 308 (2004). As such, the Agency provides no basis for finding that it was irrational, implausible, unfounded, or in manifest disregard of the agreement for the Arbitrator to order the challenged remedy, and we deny the exception.

D. The award is not contrary to law.

When an exception involves an award's consistency with law, the Authority reviews any question of law raised by the exception and the award *de novo*. *See NTEU, Chapter 24*, 50 FLRA 330, 332 (1995) (citing *U.S. Customs Serv. v. FLRA*, 43 F.3d 682, 686-87 (D.C. Cir. 1994)). In applying the standard of *de novo* review, the Authority assesses whether an arbitrator's legal conclusions are consistent with the applicable standard of law. *See U.S. Dep't of Def., Dep't of the Army & the Air Force, Ala. Nat'l Guard, Northport, Ala.*, 55 FLRA 37, 40 (1998). In making that assessment, the Authority defers to the arbitrator's underlying factual findings. *See id.*

The Agency contends that the award is deficient because the MSPB has held that agencies are not required to provide training during a PIP and that they enjoy managerial discretion and deference in establishing performance standards. Exceptions at 29. However, the Authority has held that MSPB decisions holding that agencies are not required to provide training during a PIP "do[] not prevent an agency from providing and . . . an arbitrator from requiring, training for an employee who has received an unacceptable performance rating as part of the assistance required under . . . the parties' collective bargaining agreement." *GSA*, 47 FLRA 1326, 1335 (1993). Moreover, the MSPB and court decisions cited by the Agency did not address whether an arbitrator who is enforcing a collective bargaining agreement properly may require an agency to provide performance standards in accordance with that agreement. Accordingly, these decisions are inapposite, and we deny this exception.

The Agency also contends that the Arbitrator's finding that the PIP was a "probationary period [that was] nothing more than a paid suspension" and a "disciplinary action as a prelude to an adverse action" is contrary to Title 5, Chapter 43 of the U.S. Code. Exceptions at 30. In this connection, the Agency noted that "[p]erformance actions taken under Chapter 43 are not adverse actions at all, but are considered performance based actions, as opposed to actions taken under Chapter 75." *Id.* Even assuming that the Arbitrator misinterpreted Article 43, he based his award on a finding that the Agency violated Chapter 43 *and* the parties' agreement. Award at 54-55. The Authority has held that where an arbitrator bases an award on separate and independent grounds, an excepting party must establish that all of the grounds are deficient in order to demonstrate that the award is deficient. *See, e.g.*, *U.S. Dep't of the Treasury, IRS, Oxon Hill, Md.*, 56 FLRA 292, 299 (2000). We have denied the Agency's essence exceptions. Thus, as the Arbitrator's finding of a contractual violation

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relevant part: "All bargaining unit employees will receive an annual performance appraisal for the period October 1 through September 30, or other dates agreed to by the national parties[.]" *Id.* at 34-35. Article 26, Section 10 states, in relevant part:

> If the supervisor determines that the employee is not meeting the standards of his/her critical elements(s), the supervisor shall identify the specific, performance-related problem(s). After this determination, the supervisor shall develop . . . a written PIP. . . . If the performance deficiency is caused by circumstances beyond the employee's control, the supervisor should consider means of addressing the deficiency using other than a PIP.

Id. at 36.

constitutes a separate and independent basis for his award, the Agency's contrary-to-law exception provides no basis for setting aside the award. Accordingly, we deny the exception.

V. Decision

The Agency's exceptions are denied.

Member Beck, Dissenting:

I do not agree with the Majority in several respects. I would vacate the award because the Arbitrator exceeded his authority and because the award fails to draw its essence from the parties' collective bargaining agreement.

The Arbitrator framed the issue in a way that can only be viewed as quite limited in scope: "Was the [g]rievant properly placed on a valid performance improvement plan [(PIP)] and, if not, what shall be the remedy?" Award at 2. Therefore, the Arbitrator exceeded his authority when he determined that the Agency violated Article 9 by failing to provide "trainee" position descriptions (PDs) and performance standards during the initial training period (*id*. at 45) and directed that the grievant be returned to a probationary training period under "trainee" performance standards and PD.[1] *Id*. at 55-56.

The grievant had successfully completed the training phase of her employment and had begun regular work as a Rating Veteran Service Representative (RSVR) before the PIP was initiated and, indeed, before she began the appraisal period that formed the basis of the PIP.[2] Consequently, matters of training were not encompassed within the issue framed by the Arbitrator.

I cannot conclude, as does the Majority, that the Arbitrator's award draws its essence from Articles 9 and 26 insofar as he requires the Agency to provide trainee PDs and trainee performance standards, and to specify the causes of unacceptable performance. None of these actions is required by the parties' CBA:

1. No evidence was presented that "trainee" performance standards or PDs exist. *See* Exceptions at 28 (citing *id.*, Attachs. B-3, B-5, and B-8). However, the grievant was provided "training benchmarks" during her initial training period. Exceptions, Attach. B-4. The Arbitrator found incorrectly that the grievant was not provided with these benchmarks during her training period. Award at 9-10.

2. I do not agree that the Agency's first exceeds authority exception (Arbitrator found that the Agency violated Article 9 by failing to provide trainee PDs and performance standards) is a "bare assertion." *See* Majority at 6. The arguments set forth by the Agency in its brief on pages 25-28 specifically support that exception. It is obvious that the arguments presented on pages 25-34 were intended to address both exceptions.

- Article 9 requires only that the employee receive a PD at the time of assignment. The grievant was provided the RVSR PD during both the training period (Award at 9) and upon actual assignment to the position (Exceptions, Attach. B-5).

- Article 26, Section 5 requires that standards be given "at the beginning of the appraisal period." The grievant was given (and signed for) performance standards when she was assigned to the RVSR position at the conclusion of her training period. Exceptions, Attach. B-8.

- Article 26, Section 10 requires that a PIP identify specific performance deficiencies, successful level of performance, corrective actions, measures of improvement, and training that will be provided. The PIP included all of these elements. Exceptions, Attach. B-12.

Without a doubt, arbitrators are afforded substantial latitude to interpret contract provisions and to fashion a remedy. *NFFE, Local 1442*, 64 FLRA 1132, 1134 (2010). However, that latitude is not without limits. Here, the Arbitrator took it upon himself to impose new and additional requirements that the parties chose not to include in their CBA. As such, the award is not a plausible interpretation of the agreement.[3]

Accordingly, I would vacate the Arbitrator's award.

3. As noted above, the Arbitrator here imposed new requirements that could not have been anticipated by the parties. *See supra* n.1. Accordingly, this case is distinguishable from those cited by the Majority. *See* Majority at 6. In those cases, the arbitrator merely applied a remedy in a manner that was rationally derived from (even if not specifically addressed by) the parties' agreement or was otherwise required by the circumstances of the violation. *U.S. Dep't of Veterans Affairs, Ralph H. Johnson Med. Ctr., Charleston, S.C.*, 58 FLRA 413, 414 (2003) (although agreement was silent regarding promotion, it was reasonable for arbitrator to require promotion to GS-8 after one year of "successful performance" where agency regulation required promotion after one year of satisfactory performance); *U.S. Dep't of Def., Educ. Activity, Arlington, Va.*, 56 FLRA 901, 902, 906 (2000) (reasonable for arbitrator to require payment of remedy within 30 days "because [the agreement] was silent as to a specific time frame" and the record demonstrated prior instances where the agency had delayed payment); *U.S. Dep't of the Treasury, IRS, Wash., D.C.*, 56 FLRA 393, 394-95 (2000) (reasonable for arbitrator to direct agency to submit bargaining impasse to Federal Service Impasses Panel where agency stipulated that the issue for the arbitrator included the question whether the agency's agreement to negotiate obligated the agency to submit to impasse procedures); and *U.S. Dep't of the Air Force, Ogden Air Logistics Ctr., Hill Air Force Base, Utah*, 35 FLRA 1267, 1271 (1990) (reasonable for arbitrator to interpret provision that required supervisor "to seek volunteers among qualified employees" to exclude employees on leave even though CBA did not define whether the term "qualified employee" excluded employees on leave).