

STATE OF WISCONSIN

STATE PERSONNEL BOARD

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KATHLEEN MARQUARDT,

Appellant,

v.

VIRGINIA HART, Chairperson, Dept. of
Industry, Labor & Human Relations;
VERNE KNOLL, Deputy Director, State
Bureau of Personnel,

Respondents.

Case No. 77-101

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OFFICIAL

OPINION AND ORDER

Before: DeWitt, Morgan, Warren and Hessert, Board Members.

NATURE OF THE CASE

This is an appeal of the denial by respondents of appellant's admission to an examination pursuant to s. 16.05(1)(f), Wis. Stats.

FINDINGS OF FACT

The appellant applied for admission to a competitive promotional examination for Job Service Supervisor 2. Among the training and experience requirements prerequisite to admission to the exam was the following:

"Three years of professional work experience or training which would provide reasonable assurance that the knowledge and skill required upon appointment have been acquired. These may be acquired by THREE years of professional work in Job Service programs or other comparable level and type of experience." Respondents' Exhibit 5B

The jobs to be filled by the examination involved the supervision of adjudication activities of various job service offices. In addition to general kinds of supervisory functions such as the assignment and review of work, the maintenance of discipline and morale, etc., the tasks included:

"Perform adjudication related tasks; e.g., investigate, interview, advise participants to disputed claims; research cases, report findings, render initial decisions on eligibility of claims, recommend action on fraudulent claims; accept, appeal and review requests, aid employees in report preparation; act as lead analyst on very difficult cases." Respondents' Exhibit 5B

The respondents denied appellant admission for the examination on the basis of not having the requisite 3 years of professional training or experience. The appellant was given the opportunity to provide additional information relevant to this point, which she did. However, respondents did not change their position in response.

Appellant has been, since February, 1974, an intake supervisor of the Fox Valley Job Service Office, classified as Job Service Assistant Supervisor since reallocation on October 26, 1975, and as an Administrative Assistant before that. This position is responsible for the supervision of up to 35 clerical employes in the intake operations unit. This involves the direct supervision of processing clerks as opposed to positions discharging an adjudication function such as the Job Service Specialist series. She has had some responsibility for review of the substantive work of such positions. This involves the review of Job Service application cards to determine if the correct applicant status within certain categories has been checked off by the specialist--e.g., there are 9 categories of veterans' status and 4 categories of handicapped, etc. This review is based on an analysis of the information on the face of each card and is a check for intrinsic ambiguities. She also reviews the wording of job orders to check to ensure that they do not contain inappropriate age or other discriminatory references.

The appellant has performed a broad range of general supervisory functions such as the hiring, training, and discipline of employes, the development of management by objective goals, preparation of input relating to her sphere of responsibility to the district office plan of service, or the future

projection for service of clients in that area, response to inquiries of local employees, civic groups and legislators, and assisted the acting director for 14 months while the district office was without a director, by coordinating the activities between the other supervisors and handling general office complaints and problems. Prior to occupying this position, appellant occupied a position processing unemployment claims classified as a Clerk 3. The appellant has taken adjudication statements but has never made adjudication determinations.

The Dept. of Industry, Labor and Human Relations' personnel specialist, Mr. Komarek, who made what amounted to the final decision to exclude appellant from the examination did not base his decision solely on the classification of appellant's position and salary schedule, but on an independent analysis of her duties and responsibilities as set forth in her application, as amplified. Respondents' Exhibits 8 and 9. He in part based his determination that appellant lacked the prerequisite professional experience on a definition of the term "professional" substantially similar to that found in the position standard for the Job Service Specialist series:

"Job service work is considered professional when the work 1) is predominantly intellectual and varied requiring knowledge of an advanced type customarily acquired by a prolonged course of specialized intellectual instruction in an institution of higher learning, 2) involves the consistent exercise of discretion and judgment and, 3) is of such character that the output produced or result accomplished cannot be standardized in relation to a given period of time." Board's Exhibit 4.

CONCLUSIONS OF LAW

The burden of proof is on the appellant to demonstrate that respondents erred in denying her admission to the examination in question. See 2 Am. Jur.

2d Administrative Law §391. In this case and on this record, it is concluded that the definition of "professional" contained in the position standard for Job Service Specialists cited above, Board's Exhibit 4, is a proper definition for usage in interpreting and applying the training and experience requirement for the examination in question, and that the appellant failed to discharge her burden of proving that her experience at the Fox Valley Job Service Office met this definition.

While appellant's supervisory and coordinative functions of necessity involve some exercise of a certain amount of discretion and the interpretation and application to particular facts of general statutory and departmental guidelines, the same may be said of a great many positions in state service, including many that clearly are neither professional nor supervisory in nature, despite the fact that such work partakes of some of the general characteristics of professional work. The fact that a particular position requires that the employe give some thought to how best to accomplish a task before commencing the task in a rote fashion does not mean that such an employe is exercising the kind of discretion and judgment involved in a professional position.

There appears to be no question that appellant is performing work that is highly important. It may be that her work is more important in terms of its impact on the overall function of the job service than, for example, a job service specialist 2 who might have met the 3 years professional training and experience and have been admitted to the exam. However, the criterion involved here is not that of the relative "importance" of one's experience, but the professional nature of the applicant's relevant training and experience,

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which is not surprising since the positions in question involve the supervision of professional adjudication activities.

ORDER

The actions of the respondents are sustained and this appeal is dismissed.

Dated: September 15, 1977.

STATE PERSONNEL BOARD


Laurene DeWitt, Chairperson