

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *
 *
 JUDITH SAVIANO,
 *
 *
 Appellant,
 *
 *
 v.
 *
 *
 DIVISION OF PERSONNEL,
 *
 *
 Respondent.
 *
 *
 Case No. 78-49-PC
 *
 *
 * * * * *

DECISION
AND
ORDER

NATURE OF THE CASE

This appeal, filed pursuant to §230.44(1)(a), Stats., concerns the denial of the appellant's request for reclassification from Job Service Assistant 3 (JSA 3) to Job Service Assistant 4 (JSA 4). The matter was heard before Commissioner Charlotte M. Higbee on December 21, 1978, and January 4, 1979.

On May 31, 1979, the Commission examined the respondent's objections to the Proposed Opinion and herewith issues an amended Decision and Order.

FINDINGS OF FACT

The Commission adopts and incorporates by reference the Finding of Fact proposed by the hearing examiner in the Proposed Opinion and Order, a copy of which is attached, with the following modifications:

1. Finding number 1 is amended by substituting (PR 2-07) for (PR 2-08) in the third line and should read;

"1. The appellant is employed by the WIN (Work Incentive Program) Bureau of the Job Service Division of the Department of Industry, Labor, and Human Relations (DILHR), as a JSA 3 (PR 2-07) in the Employment Contract and Job Development section. She has worked for the WIN Bureau since August 28, 1973, successively as Clerk 2, Clerk 3, and

JSA 1. She was reclassified to a JSA 3 in June, 1976, with a working title of Employment Contract Clerk."

The pay range set forth in the original finding was an error. Both the exhibits and testimony adduced at the hearing support the correction to (PR 2-07).

CONCLUSIONS OF LAW AND OPINION

The Commission adopts and incorporates by reference the attached Conclusions of Law and Opinion proposed by the hearing examiner, except that the second paragraph of the Order in the Proposed Decision is added to the Opinion, pursuant to §230.44(4)(c), to read:

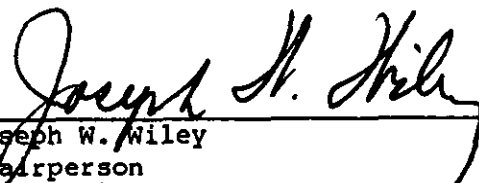
It is recommended that the effective date be the date of the denial letter, March 30, 1978.

ORDER


The action of the respondent in denying the appellant's reclassification request is rejected and the matter is remanded to the administrator for action in accordance with this decision, pursuant to §230.44(4)(c).

Dated: June 22, 1979.

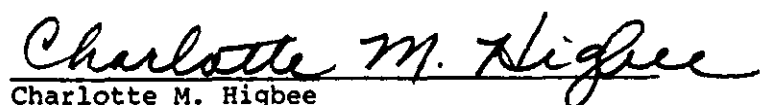
STATE PERSONNEL COMMISSION



Joseph W. Wiley
Chairperson



Edward D. Durkin
Commissioner



Charlotte M. Higbee
Commissioner

STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *

JUDITH SAVIANO,
 Appellant,

v.
 DIVISION OF PERSONNEL,
 Respondent.

Case No. 78-49-PC

* * * * *

PROPOSED DECISION
AND ORDER

NATURE OF THE CASE

This appeal, filed pursuant to §230.44(1)(a), Stats., concerns the denial of the appellant's request for reclassification from Job Service Assistant 3 (JSA 3) to Job Service Assistant 4 (JSA 4). The matter was heard before Commissioner Charlotte M. Higbee on December 21, 1978, and January 4, 1979.

FINDINGS OF FACT

1. The appellant is employed by the WIN (Work Incentive Program) Bureau of the Job Service Division of the Department of Industry, Labor, and Human Relations (DILHR), as a JSA 3 (PR 2-08) in the Employment Contract and Job Development section. She has worked for the WIN Bureau since August 28, 1973, successively as Clerk 2, Clerk 3, and JSA 1. She was reclassified to a JSA 3 in June, 1976, with a working title of Employment Contract Clerk.

2. Appellant is responsible on a daily basis for the movement of employment contracts and employment-related documents through the WIN Bureau, including review for completeness and accuracy, in accordance with the Bureau policies and procedures as set forth in the WIN Manual,

and routing of completed contracts to the DILHR Bureau of Financial Management for computer input. Sometimes as many as 30-40 of these documents come in from the 43 local WIN offices in a single day; the average number is about 15 per day.

3. Appellant spends about a third of her time each day responding to phoned-in questions from the field offices, largely procedural in nature. About half of these questions are from the clerical staff who prepare and send the WIN invoices (Appellant's Exhibit 7) to her and half from the professional staff, job developers whose classifications range from Job Service Specialist 1 (JSS 1) to JSS 5 and J S Supervisor.

4. There are at various times from 100-200 such job developers who work with public and private employers in setting up contracts for the employment of WIN clients. They have the manual available in the field and are responsible for the accuracy of the contracts.

5. Although the WIN manual sets forth the guidelines for determining the appropriate contract to be used, namely Public Service Employment (PSE), On-the-Job-Training (OJT) or Intensive Follow-up (IF), as well as some specific provisions within each contract relating to such subjects as fringe benefits, in-kind employer contributions, institutional training and transportation, it does not cover all problem areas in depth. There is nothing in the manual about the hard-to-place client, about which appellant gets an average of 2 calls per week and to which she responds based on her experience without consulting with supervisors.

6. The appellant has in-depth knowledge regarding procedures and the movement of WIN employment documents.

7. About one-third of the contracts come in to the appellant with

errors, which appellant returns with notation of errors on a correction form which she designed (Appellant's Exhibit 7).

8. Appellant's supervisor, chief of the Employment Contract and Job Development Section of the WIN Bureau, is responsible for the development and revision of Chapter 12 of the WIN Manual. He in turn delegates the writing of each specific section to the employe who has the expertise for that portion; in the case of the WIN Employment Contracts section this was appellant's co-worker, a contracting specialist who drafted most of the policy sections and who, along with the appellant, worked on drafts of the procedural portions. Appellant had a "considerable" or "big" role on procedural sections, as the person most involved with the movement of documents through the WIN Bureau, and possessing an in depth knowledge of their handling.

9. About 40-60% of the JSS 5's time is spent in answering questions from the field, including policy and procedural questions, complaints, and calls from employers about payments. Whereas appellant handled largely procedural questions, he handled primarily policy matters; he could authorize deviations from manual procedures if circumstances warranted, whereas the appellant could not, although she could authorize contract extensions within the guidelines.

10. When the section supervisor and the JSS 5 were both out of the office, appellant conducted all of the section's normal functions and all questions regarding employment contracts were referred to her. Based on her knowledge and experience, appellant responded to virtually all such questions, including policy matters; according to the JSS 5, she did a very good job. There are no specific functions of the JSS 5

which the appellant did not perform in his absence other than authorize deviations from manual procedures.

11. On December 20, 1977, the State WIN Director "appealed" reclassification denial by DILHR personnel with the statement that: "Based on her training and experience she has progressed in her job and is able to handle not only the routine aspects of her job but is able to handle the exceptional cases. She is relied upon to identify contractual items which are out of compliance with WIN policy and take independent corrective action."

12. Appellant devotes 10% of her time to the ongoing process of WIN manual revisions, recommending changes and assisting in the development of procedures and forms for which her supervisor has the primary responsibility. This task is not included in her position description.

13. Appellant sets her own priorities and works largely without contact with or direction from her supervisor.

14. Appellant maintains her own files and control system and initiates and prepares monthly statistical reports relating to WIN employment contracts.

15. Appellant does a minimum of typing (5% of her time), solely as related to her own monthly reports and correspondence with field offices.

16. Appellant serves as liaison between DILHR's Bureau of Financial Management and the Federal Payment Bureau.

17. At the time of the review, appellant had been trained as back-up for WIN Institutional contracts.

18. The WIN Bureau organizational chart (Respondent's Exhibit 6), which was considered as part of the current audit, labels appellant's position as "PARA" for paraprofessional (as contrasted with "PRO") for professional.

19. In agreeing to the request for reclassification of appellant's position to JSA 3 on July 8, 1976, the personnel specialist noted:

"Although we are aware that many of Ms. Saviano's position functions were previously assigned to positions classified in the old Manpower Specialist series (comparable pay range as Job Service Specialist), the position descriptions for the Manpower Specialist positions indicated that these positions were also assigned professional level functions not assigned to Ms. Saviano. These positions were classified based upon the professional level functions assigned."

"The primary functions assigned to Ms. Saviano's position are considered to be advanced sub-professional functions (emphasis provided) appropriately classified at the Job Service Assistant 3 level ..." (Respondent's Exhibit 19).

20. Appellant's position description dated 3/30/76, which was audited in relation to both the 1976 and current reclassification requests, contained the following Job Summary:

"Under the general supervision of the Section Chief this position provides support services to the WIN Employment Contract Specialist. This specialized position provides a control and review of all WIN/OJT, IF and PSE contract documents on a statewide basis requiring a through knowledge of the WIN employment contracting policies, guidelines and procedures. Exercises independent judgment in reviewing contract documents for accuracy and completeness. Takes independent corrective action using a considerable amount of discretion. Communicates with Employment Contract Specialist, local office staff at 30 (then) different WIN offices, DILHR Financial Management, and the State Bureau of Personnel in carrying out responsibilities of the position."

"Maintains a complex recordkeeping system on the financial status of contracts and prepares a variety of statistical reports." (Respondent's Exhibit 5).

21. At the time of the current audit, the appellant performed all

of the same duties plus assisting in the writing and revision of the WIN manual, development of forms, training of field personnel in procedures, and serving as back-up for Institutional Contracts.

22. The definitions in the classification standards for JSA 3's and 4's are:

JSA 3 is "entry level paraprofessional or highly responsible clerical job service work Under close supervision (emphasis provided) paraprofessionals at this level provide direct services to clients and employers or support services to professional staff requiring the exercise of considerable discretion and judgment in tailoring services to meet client/employer needs and Job Service program objectives."

JSA 4 is "responsible paraprofessional job service work ... Staff positions at this level provide direct services to clients and employers or support services to professional staff ..." (As above).

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this appeal pursuant to §230.44(1)(a), Stats.

2. The appellant has the burden of proving to a reasonable certainty by the greater weight of the credible evidence that the respondent was incorrect in denying her request for reclassification to the JSA 4 level.

Reinke v. Personnel Board, 53 Wis. 2d 123 (1971)

Lyons v. Wettengel, 73-36, 11/20/74

Bischel v. Bureau of Personnel, 78-24, 6/16/78

3. The appellant has carried her burden of proof. She has established that the Job Service Assistant 4 classification is proper for her position and that the respondent was incorrect in refusing to reclassify her at that level.

4. Respondent's action denying reclassification should be rejected.

OPINION

In her appeal appellant asserts that her position should be classified at the JSA 4 level and that respondent's denial of her request for reclassification from the JSA 3 level was incorrect. For the appellant to prevail in this matter she must show by the greater weight of the credible evidence that her position involves duties and responsibilities that would be associated with the JSA 4 level rather than with the JSA 3 level. The appellant has succeeded in carrying this burden of proof. She has shown sufficiently that the majority of her duties constitute responsible paraprofessional job service work as defined in the JSA 4 classification standards.

Whereas there are substantial differences between the appellant's job duties and those of the other JSA 3's to which she was compared, such as the nature of supervision and independence of action, there are substantial similarities between the appellant and several of the JSA 4 positions in those two areas but particularly in the provision of support and technical assistance to the job service professionals.

The personnel specialists who conducted the instant review testified that appellant did not meet the classification standards for a JSA 4 because she was not functioning as a lead worker nor was the nature of her work that of a responsible paraprofessional. When the appellant was reclassified from JSA 1 to JSA 3, the audit was conducted by the personnel specialist who had audited all Job Service positions and who had developed the JSA Series Standards. At that time, almost two years earlier the appellant was denominated an "advanced suprofessional" and it was conceded that many of her functions were previously assigned to position classified in the old Manpower Specialist series

(comparable pay range to Job Service Specialist).

Webster's Unabridged Dictionary defines paraprofessional as "a worker who is not a member of a given profession but who assists a professional." The respondent's use of the term advanced sub-professional is clearly synonymous, given the nature of the duties performed by the appellant and the testimony of the professional Job Service Specialist 5 to the effect that he and the professionals in the field relied on her expertise regarding procedures and the movement of WIN documents. This testimony also substantiated the position of the state WIN director that both the Employment Contract Specialist (JSS 5) and the appellant's supervisor rely on appellant's support in administering the WIN employment contracts on a state-wide basis.

Not only had appellant worked at the JSA 3 "entry level" paraprofessional classification for almost two years at the time her request for reclassification was denied, but also there had been some additions to her responsibilities which were not reflected in her position description. These include her assignment as back-up for Institutional Contracts, participation in the ongoing revisions of the WIN manual and development of forms, and assisting in the training of field personnel regarding WIN contract procedures. These additional duties combined with the reliance of Job Service professionals on her expertise evidence her progression from entry level to responsible paraprofessional job service work.

For these reasons it is determined that the appellant's position is more properly identified at the JSA 4 level.

Saviano v. Div. of Pers.
Case No. 78-49-PC
Page 9

ORDER

IT IS HEREBY ORDERED that the action of the respondent in denying the appellant's reclassification request is rejected and the matter is remanded to the administrator for action in accordance with this decision, pursuant to §230.44(4)(c).

It is recommended that the effective date be the date of the denial letter, March 30, 1978.

Dated: _____, 1979.

STATE PERSONNEL COMMISSION

Joseph W. Wiley
Chairperson

Edward D. Durkin
Commissioner

Charlotte M. Higbee
Commissioner

CMH:jmg

3/16/79