

STATE OF WISCONSIN

PERSONNEL COMMISSION

ROBERT BELONGIA,
Appellant,
v.
Administrator, DIVISION OF
PERSONNEL,
Respondent.
Case No. 79-263-PC

ORDER

The Commission has considered the objections and arguments of the parties to the Proposed Decision and consulted with the hearing examiner. The Commission hereby adopts the Proposed Decision and Order, attached hereto, as its Final Decision and Order in this matter, with the following amendments to the findings of fact to better reflect the record:

Finding of Fact #2 is amended by addition of the following underscored language:

"2. On September...classification and certification review, personnel management surveys...."

Finding of Fact #11 is amended by substitution as follows:

"11. Since the time that the State was covered by the Fair Employment Labor Standards Act, Belongia has been...."

Dated June 30, 1981

STATE PERSONNEL COMMISSION

Parties:
Mr. Robert Belongia
2621 Mission Circle
Madison, WI 53713

Gordon H. Brehm
Gordon H. Brehm, Chairperson

Mr. Charles Grapentine
Division of Personnel
149 E. Wilson St.
Madison, WI 53702

Charlotte M. Higbee /mqd
Charlotte M. Higbee, Commissioner

AJT:mek

STATE OF WISCONSIN

PERSONNEL COMMISSION

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ROBERT BELONGIA,

Appellant,

v.

Administrator, DIVISION OF
PERSONNEL,

Respondent.

Case No. 79 - 263-PC

* * * * *

PROPOSED
DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal from the denial by the Division of Personnel, Department of Employment Relations, of appellant's request for reclassification from Personnel Specialist 5 (PS-5) to Personnel Specialist 6 (PS-6). Hearing was held on May 28, 1980, before Charlotte M. Higbee, Commissioner.

FINDINGS OF FACT

1. Belongia has been employed by the Department of Employment Relations, Division of Personnel (formerly the Bureau of Personnel in the Department of Administration), since August, 1972, first as a Personnel Technician, then as a Personnel Analyst 1 (PA-1), a progression series, in which he was reclassified to PA-2 on August 3, 1975.

2. On September 28, 1975, the new Personnel Specialist (PS) series became effective, and Belongia was reclassified to PS-5 (PR 1-15), effective June 6, 1976. His duties included a variety of complex personnel functions including consultive services to the state's Environmental Resource agencies, classification and certification, personnel management surveys, uniform overtime provisions, and special research projects.

3. Early in 1976, all senior personnel specialists in the then Bureau of Personnel were asked to submit a "Point System Evaluation Report," to be used as

the basis for selecting a coordinator for the impending clerical survey and the attendant pilot research project. Belongia was selected for this responsibility in August, 1976; however his position description was not changed to reflect his new duties.

4. Beginning in 1977 Belongia's duties involved all aspects of the clerical survey and special project, which consumed 80% of his time. Reporting directly to the Deputy Bureau Director, Belongia developed a quantitative classification and evaluation system and proposal for Public Service Employment Project Funding, whereby funds were obtained to hire an outside consultant.

5. Hay Associates was retained as consultant in 1977 and developed a system to redesign the clerical classifications.

6. Belongia independently coordinated the survey of approximately 10,000 clerical employees, encompassing 166 classifications. Belongia developed the field audit procedures used and trained twenty agency specialists to do the field audits. Following their audits, which were conducted over a 4-5 month period, the agency specialists provided the information they had collected and made classification recommendations to Belongia. He assessed agency needs and input and transmitted his recommendations to the consultant.

The clerical survey was different from typical surveys in that it was much larger, covered an entire occupational group, and required coordination with the class specifications so that they would be compatible with agency needs.

7. On January 27, 1978, Belongia submitted a written request for reclassification to his supervisor, Stephen Christenson. On the same day Christenson returned the request with a hand-written note on it asking Belongia to specify how his position met the class concepts and specifications for the PS-6, and stating that this would then precipitate a formal classification review. Belongia advised

Christenson orally that he would not do so because of his concern that, if the department found his analysis faulty, it might reflect adversely upon his professional competence.

8. Belongia's position description had not been updated since May, 1976, and did not accurately reflect his duties and responsibilities in 1977-78. He submitted a new p.d. in March, 1978, but not a written request for reclassification although there were discussions between him and Christenson as to the proper classification level of his position. No action was taken until August 20, 1979, when his reclassification request was denied.

9. Belongia has had the primary responsibility of implementing the clerical survey since its approval by the Personnel Board in 1979. He coordinated the conduct of the survey and was delegated the authority to make all survey classification decisions without review. At the time of the hearing, 90% of his time was devoted to his duties as coordinator.

10. About one-eighth of Belongia's work during 1977 was devoted to a special project on classification delegation. He analyzed the content of the classifications with respect to their agency use and made class by class recommendations to Christenson as to what delegation should exist in each agency. These recommendations represented changes in previous delegation policy and practices. Christenson made the final decision.

11. Since the time that the state was covered by the Fair Employment Standards Act, Belongia has been the Division of Personnel's expert on the act, including its equal pay for equal work and uniform overtime provisions. (The latter relates to the state's policies on overtime pay and hours of work.)

12. The most significant distinction of the Personnel Specialist 6 classification as compared to the PS-5 classification is the concept in the PS-6 of "assigned

responsibility for significant segments of a major program on a continuing basis."
(Respondent's Exhibit 1)

13. Belongia, as coordinator of the clerical survey, was and is responsible for a significant segment of a major program on a continuing basis.

14. The Personnel Specialist 6 classification best fits the duties and responsibilities of Belongia's position.

CONCLUSIONS OF LAW

1. The Personnel Commission has jurisdiction over this appeal pursuant to s.230.44(1)(a), Wisconsin Statutes.

2. The burden of proof is on the appellant to establish by the greater weight of credible evidence that his position is more properly classified as Personnel Specialist 6.

3. The appellant has met his burden of proof and established that his job should have been classified as Personnel Specialist 6.

OPINION

Generally the facts in this matter are not in dispute. In August, 1976, Belongia, who was a Personnel Specialist 5 at the time, was assigned the duties of coordinator of the clerical survey. His position description was not modified to include these duties, nor had it been modified at the time of the hearing. Initially Belongia reported directly to the Deputy Director of the then Bureau of Personnel, and at all times has had the delegated authority to make clerical survey classification decisions without review. Belongia was responsible for developing the audit procedures used, training the personnel specialists from other state agencies, reviewing and coordinating the results of the field audits, and Division of Personnel implementation of the survey, involving approximately 10,000 clerical employees (about one-fourth) of the total state classified employees.

The magnitude of the clerical survey and the extent of the responsibility for independent action delegated to Belongia clearly place his position at the PS-6 level . His position involved more than the duties and responsibilities set forth in the standards for PS-5, both as to scope, complexity, and independence of action. Mr. Belongia's position clearly fulfilled the definition of the PS-6 class description:

"This is advanced professional personnel work involving responsibility for a specialized function within the State Bureau of Personnel. Positions allocated to this class are assigned, on a continuing basis, responsibility for significant segments of major programs; or work primarily in research or special projects which affect Bureau policy on programs as they relate to personnel management in state service. Work of this class is characterized by the involvement and impact on policy and procedural matters, and the extremely high degree of technical competence required. Supervision of employees in this class is limited to conferences and the administrative review of the progress of the assigned program segment." (Respondent's Exhibit 2 F)

In denying Belongia's request for reclassification, the Administrator of the Division of Personnel stated:

"On the basis of my analysis, the most significant distinction of the Personnel Specialist 6 classification as compared to the Personnel Specialist 5 classification is the concept in the former of 'assigned responsibility for significant segments of a major program on a continuing basis.' After careful review of the work assignments you have cited, it is my conclusion that these assignments do not represent such 'responsibility for a significant segment of a major program on a continuing basis.'

The fact that some of your assignments have extended over a considerable period of time does not, in my opinion, meet this distinct requirement of the Personnel Specialist 6 specification. As I'm sure you are aware, much of the work of the Division is of a kind that requires follow through over extended periods of time. This is particularly true in appeals resulting from a major occupational survey."
(p. 2, Respondent's Exhibit 1)

The clerical survey was more than the usual major occupational survey; it was, in fact, the most extensive classification survey the state has conducted, both as to scope and as to number of affected employees. What began in 1976 is still in the process and is likely to continue to be for several more years. (Appeals from the survey

have been set for hearing into December, 1981, and approximately 300 appeals remain to be scheduled for hearing, and the re-review process is continuing as a result of the prehearing process.)

Black's Law Dictionary defines continuing as "enduring; not terminated by a single act or fact; subsisting for a definite period or intended to cover or apply to successive similar obligations or occurrences."

The Commission agrees that many job duties and responsibilities involve some follow through over extended periods of time. In the matter of the clerical survey that follow through has been a continued major portion of Belongia's work for a period of time that clearly brings his assignment within the concept of "responsibility for a significant segment of a major program on a continuing basis," in that it was not terminated by a single act of fact and was intended to apply to successive similar obligations or occurrences until all the appeals from clerical reallocations have been resolved.

In addition to the clerical survey, Belongia was assigned other responsibilities at the PS-6 level, albeit they constituted a lesser percentage of his work. About a eighth of his time during 1977 was devoted to the special project on classification delegation (see Finding of Fact 10), which affected then Bureau policy as related to personnel management in state service. He also serves on a continuing basis as the Division of Personnel (and formerly the Bureau) authority and consultant on the federal Fair Employment Standards Act. (Finding 11.)

The examples of work performed are not meant to be exhaustive but rather only representative of the level and scope of responsibility (see former s. PERS 2.04(1)). The majority of Belongia's duties (80-90%) should be equated with at least three listed in the PS-6 specifications: "coordinates the classification review or occupational analysis activities on a statewide basis," "serves as the State Bureau

of Personnel (sic) authority and consultant on a significant segment of a major program," and "may lead and review the work of other specialists " (in this case from other agencies). (Respondent's Exhibit 2 F) Although the respondent identified the PS-6 examples with specific positions in the Division of Personnel, not including the appellant's, it does not follow that therefore Belongia was not performing at the PS-6 level. As the predecessor Personnel Board pointed out in Kailin v. Weaver and Wettengel, 73-124-PB (11/28/75):

"Personnel classification is not an exact science. In appeals of reclassification denials, it is usually the case that the employee's duties and responsibilities overlap in some respects both of the class specifications in question. The employee is not entitled to reclassification because some aspects of his work fall within the higher class. Resolution of the question involves a weighing of the specifications and the actual work performed to determine which classification best fits the position. An exact fit is very rarely possible."

In the instant case the Personnel Specialist 6 classification best fits the appellant's position. There remains the question of what should be the effective date of the reclassification. The Commission concludes that the effective date shall be the date on which Mr. Belongia's reclassification would have been effective had his request been granted by the Administrator of the Division of Personnel in his letter of August 20, 1979.

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ORDER

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

Dated _____, 1981

STATE PERSONNEL COMMISSION

Charlotte M. Higbee
Chairperson

Donald R. Murphy
Commissioner

Gordon H. Brehm
Commissioner

CMH:mgd

DISSENT

Only two witnesses testified in this case, the appellant, Mr. Belongia, and Mr. Christenson for the respondent. Both are credible, experienced in the classified service occupation analysis, and considered experts in classification evaluation. Mr. Christenson is Mr. Belongia's supervisor. I dissent for the following reason. The appellant had the burden of proof and I do not believe he met that burden.

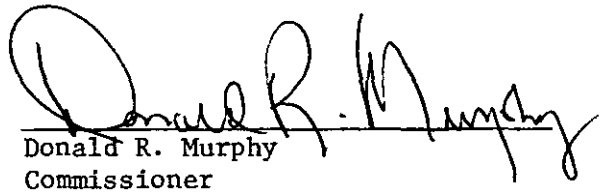
The question before the Commission was whether or not the appellant's duties and responsibilities, at times relevant to his reclassification request met the requirements of a Personnel Specialist 5 or a Personnel Specialist 6 classification. The class specifications for Personnel Specialists 5 and 6 are similar in that they both involve advanced professional personnel work performed under limited supervision. This case turns on the words, "Positions allocated to this class are assigned, on a continuing basis, responsibility for significant segments of major programs; or work primarily in research or special projects which...impact on policy and procedural matters," found in the definition of the class specifications for a Personnel Specialist 6. Mr. Christenson testified there were three major program areas in appellant's Bureau: compensation, class plan administration, and occupational analysis for personnel management surveys. He testified that the appellant did not have continuing responsibility for a significant segment of a major program, nor involvement in special projects -- not his primary work -- with significantly impacted upon Bureau policy. Mr. Christenson's testimony which went into great detail, was supported with

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documentary evidence and work examples of a Personnel Specialist 6. The appellant's testimony and supporting evidence did not affirmatively refute Mr. Christenson's testimony to the degree required to carry his burden of proof.

It is my opinion respondent's decision should be affirmed and this case dismissed.

Dated June 30, 1981


Donald R. Murphy
Commissioner

DRM:mew