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NORBERT J. KRAMER, *

Appellant, *

v. *

Secretary, DEPARTMENT OF *

AGRICULTURE, TRADE AND *

CONSUMER PROTECTION, & *

Administrator, DIVISION OF *

PERSONNEL, *

Respondents. *

Case No. 80-197-PC *

* * * * *

DECISION
AND
ORDER

This case involves an appeal from the decision of the Secretary, Department of Agriculture, Trade & Consumer Protection (DATCP) to deny reclass of the position held by Norbert J. Kramer, appellant, from Plant Industry Specialist 3 to Plant Industry Specialist 4. The following determinations are made based upon all the evidence presented at the hearing on this matter.

FINDINGS OF FACT

1. At all times material to this case, the appellant, Norbert J. Kramer, was employed by the respondent, DATCP in a classified civil service position with permanent status in class.

2. On April 8, 1980, appellant requested respondent to audit his position and inform him of the results within sixty days. Having failed to receive an answer from the respondent, appellant filed an appeal dated June 13, 1980, with the Personnel Commission.

3. In a memorandum dated July 7, 1980, the respondent informed appellant that based upon its audit analysis, the position he held was appropriately classified as Plant Industry Specialist 3. On July 17, 1980, appellant appealed the agency's decision to the Personnel Commission and requested that his two appeals be consolidated.

4. Coincidentally, the State Division of Personnel (DP) was surveying positions in the Plant Industry Specialist class series, which included appellant's position. By a notice dated June 15, 1981, DP reallocated appellant's position from Plant Industry Specialist 3 (SR 15-04) to Plant Industry Specialist 2 (PR 15-05), effective June 14, 1981.

5. Plant Industry Specialist 3 (PIS-3) positions are described in state class specifications as follows:

This is responsible advanced professional work in insect and plant disease control and identification, and in plant industry improvement. Under minimal supervision an employee in this call is responsible for assisting in implementing a program of inspection, investigation and control of insect pests, plant diseases or white pine blister rust control. Work includes the training and direction of seasonal employees and the organizing of field activities and employees on investigations and surveys. The nature of the work differs from lower level Plant Industry Technicians in the greater degree of independent judgment and action and the responsibility for assisting in the implementation of a statewide or area-wise program of investigation and control of insect pests and plant diseases. Work is performed under general supervision of a technical supervisor.

6. The state class specifications describe Plant Industry Specialist 4 (PIS-4) positions in the following manner.

This is a very responsible professional field and laboratory work in plant pest control and identification and plant industry improvement. Under minimal supervision, an employee in this class has lead work responsibility with respect to the planning and conduct of major phases of the State's plant industry improvement and plant disease control programs through research, survey and regulatory activities.

7. Appellant, Norbert J. Kramer, at all times material to this matter worked as a plant pest specialist in the Survey and Laboratory Services Section (S&LS), Bureau of Plant Protection, Plant Industry Division, DATCP. S&LS was one of two sections in the plant protection bureau, this other was State-Federal Control Programs.

8. Appellant's duties included identifying organisms associated with the state's agriculture (50%), assessing agricultural pest conditions from field surveys (40%), and inspecting or maintaining surveillance of agricultural crops (10%).

These duties may be placed into the two general categories of laboratory analysis and field survey work. Sixty-five percent of his time is spent in the laboratory, the remainder is devoted to field surveys. Appellant's laboratory work principally consisted of tests to evaluate the effectiveness of Rhizobium bacteria on pre-inoculated legume seeds, performed in conjunction with the seed laboratory.

9. Appellant does not have lead work responsibilities with respect to planning nor does he conduct major phases of the state's plant improvement and plant disease control programs through research survey and regulatory activities.

10. Appellant holds a technical position and is comparable to other PIS-3 positions within the bureau.

11. Appellant's position is more accurately described by class specifications for a Plant Industry Specialist 3 than for a Plant Industry Specialist 4.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(b), Wis. Stats.

2. The appellant has the burden of proving that respondent's decision denying the reclassification of appellant's position from Plant Industry Specialist 3 to Plant Industry Specialist 4 was incorrect.

3. The appellant has failed to meet that burden of proof.

4. Respondent's decision denying appellant's reclassification was correct.

OPINION

The Plant Industry Specialist 4 position is described in the class specifications as "very responsible professional field and laboratory work in plant pest control and identification and plant industry improvement. It then lists general requirements for positions at this level. Employees in this class have "lead work responsibility with respect to the planning and conduct of major phases of the State's plant industry improvement and plant disease control programs through research, survey, and regulatory activities." However, respondents' personnel officer testified that in practice PIS-4 positions have either lead work responsibilities or major program responsibilities.

The appellant argues that his duties involving testing pre-inoculated legume seeds meets the PIS 4 class specification requirement of having major program responsibilities. In support of his position, appellant placed into evidence the position description of Edward Arnold and Julia Nara, both PIS-4 positions. Arnold, an entomologist, was not a lead worker, his program responsibilities consisted of writing three segments of the weekly pest survey bulletin and making appropriate media releases. Ms. Nara's duties included the major goals of preventing the introduction or spread of plant disease and suppressing plant pests by applying biological

control programs. Ms. Nara also was an entomologist. Appellant's duties are distinguishable from Arnold's or Nara's in that he functions as a technician. The pre-inoculated legume testing program responsibilities rest with the laboratory director and appellant's supervisor.

For these reasons and based upon the evidence presented, appellant fails, to be persuasive.

ORDER

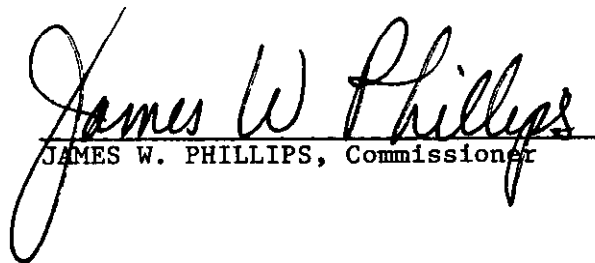
Respondents' denial of appellant's request for reclassification is affirmed and this appeal is dismissed.

Dated March 4, 1983 STATE PERSONNEL COMMISSION


DONALD R. MORPHY, Chairperson


LAURIE R. McCALLUM, Commissioner

DRM:jmf


JAMES W. PHILLIPS, Commissioner

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