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 QUENTIN FREDISDORF, \*  
 NORMAN POLINSKE, \*  
 IRVIN MOLDENHAUER, \*  
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 Appellants, \*  
 \*  
 v. \*  
 \*  
 Administrator, DIVISION OF \*  
 PERSONNEL, \*  
 \*  
 Respondent. \*  
 \*  
 Case No. 80-300-PC \*  
 \*  
 \* \* \* \* \*

DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(a), stats., of the denial of a request to reclassify the appellants' positions from Officer 5 to Officer 6.

FINDINGS OF FACT

1. Prior to July, 1977, the appellants were employed at Central State Hospital (CSH), an institution responsible primarily for criminally accused persons found not guilty by reason of mental disease or defect, sex offenders, mentally disturbed and frequently violent inmates transferred from correctional institutions, and a small number of persons civilly committed with violent behavioral characteristics.

2. In 1977, Dodge Correctional Institution (DCI), a maximum security correctional institution was created and began to operate on a merged basis with CSH.

3. Since the merger, the appellants have occupied positions as shift supervisors at CSH/DCI. These positions have been responsible for the concurrent supervision of shifts at both CSH and DCI.

4. The duties and responsibilities of appellants' positions include the following:

- a. Responsibility for the security, discipline, order and adminis-

tration of the institution, including total responsibility in the absence of supervisors;

b. Serve as shift supervisor over subordinate officers;

c. Prepare subordinates' performance evaluations; make recommendations to Security Director regarding subordinates' disciplinary actions, grievances, and various personnel matters;

d. Handle the scheduling of subordinates that is not covered by the basic schedule that is prepared by the administrative lieutenant --i.e., sick leave, personal holidays, etc.;

e. Play a significant role in developing institutional policies and procedures through making recommendations and drawing up recommended drafts;

f. Play a significant role in developing treatment and custodial programs for inmates/patients through consultation with treatment staff and participation on the "adjustment committee" (DCI), treatment staff meetings (CSH), etc.;

g. Talk to patients and inmates and handle various inmates/patient problems that come up in making institutional rounds;

h. Due to the dual nature of the institutions, these positions are required to be familiar and work with a dual set of policies, procedures and practices that differ substantially. Both the appellants and those of their subordinates assigned to CSH must be able to observe patient behavior and record this in writing in a manner that is meaningful to the psychological staff at CSH.

5. There is an administrative lieutenant at CSH/DCI who handles the basic scheduling of officers, and substantial aspects of their discipline and grievance processes. At the Wisconsin Correctional Institution at Fox Lake, there are officers who are separately responsible for training, scheduling, admissions, and the segregation facility.

6. As of July, 1981, DCI/CSH had an average daily population of 293, a capacity of 306, a workforce of 279.3 (full-time equivalents) and a security force of 187.

7. As of July, 1981, the Kettle Moraine Correctional Institution (KMCI) had an average daily population of 445, a capacity of 275, a workforce of 212 (full-time equivalents), and a security force of 132.

8. The shift supervisor positions at KMCI, which also have 24 hour responsibility for semi-independent cottage "complexes," are classified as Officer 6.

9. The position standard for Officer 5 contains the following definition:

This is very responsible correctional work supervising custodial activities and/or programs on an assigned shift in a correctional institution, camp, or maximum security psychiatric hospital. Positions at Central State Hospital and Home for Women - Taycheedah allocated to this level function as supervisors on an assigned shift with major responsibility for the custodial program to include related administrative functions, security, discipline and order in the institution. Employees at these two institutions functioning at this level are responsible for scheduling and assigning work to other officers and have a great deal of latitude for independent action in implementing and interpreting policy, as well as solving the more complex problems related to inmate care or staff personnel. The positions allocated to this level in the other larger correctional institutions serve as assistant shift supervisor and/or carry total responsibility for one administrative program such as training, scheduling or handling admissions and discharges. Employees in this class carry responsibility for the day-to-day supervision of custodial or administrative activities and programs with latitude for independent action in implementing

policy and procedure and informing the shift supervisor of the status of institution security and recommending changes in policy and procedures to improve security. Also allocated to this level are positions in a forestry camp who have total responsibility for the security and care program of all inmates. Positions at this level differ from higher level camp supervisors in that they have a higher level administrative position above them who is responsible for the total camp operation. Employees performing in this capacity, assign and schedule work of other officers and develop work projects and recreational activities. Duties of all positions at this level include touring the buildings and grounds (or wards) of the institution or camp to maintain security and order with primary responsibilities for meeting unusual emergency situations quickly and effectively. Supervision is received from higher level officers or staff positions who review work through conferences with the employee, personal inspection tours of the institution, and daily activity reports.

10. The position standard for Officer 6 contains the following definition:

This is highly responsible work in supervising the custodial program in a large institution or on a correctional farm or forestry camp. In an institution, positions at this level carry major responsibility on an assigned shift for the security, discipline, and order of the institution or for more than one administrative program such as scheduling, admissions and discharges, training, or other comparable areas. Employees at this level differ from lower levels by their high degree of involvement in the development of policy and procedures, the greater size of institutions and complexity of problems encountered, and responsibility for multiple administrative programs. On a correctional farm or forestry camp, carries total responsibility (24 hours) for the entire operation, to include, planning and management of programs, scheduling and supervising other officers, and handling the more difficult inmate problems. Supervisors at this level differ from lower level camp or farm supervisors in that they have total responsibility for an operation in which inmates are housed and fed, with no immediate supervision being available.

11. In the Personnel Management Survey, Institution Care and Custody, dated January 1969, which lead to the current Officer 5 and 6 position standards cited above, the bureau (now Division) of Personnel categorized both the Kettle Moraine Boys School (now KMCI) and CSH (now CSH/DCI) as medium. At that time, Kettle Moraine had 182 employes, including 82 youth counsellors, a rated bed capacity of 287, and an average daily population of 307, and Central State had 202 employes, including 122 officers, a rated bed capacity of 302, and an average daily population of 269. See Respondent's Exhibit 9. (at the time of the denial of the reclassification requests, KMCI had an average daily population of 373, and CSH/DCI had 274).

12. The aforesaid survey also included at page 33 the following statement:

The institutions were broken down by the four criteria listed on Chart C.

The numerical breaking points for determining size are as follows:

- |        |   |
|--------|---|
| LARGE  | 1. Over 250 total employes                          |
|        | 2. Over 150 aids, officers, or youth counselors     |
|        | 3. Over 500 rated bed capacity                      |
|        | 4. Over 500 average daily population                |
| MEDIUM | 1. 150-250 total employes                           |
|        | 2. 75-150 aids, officers, or youth counselors       |
|        | 3. 200-500 rated bed capacity                       |
|        | 4. Over 500 average daily population                |
| SMALL  | 1. Less than 150 total employes                     |
|        | 2. Less than 75 aids, officers, or youth counselors |
|        | 3. Less than 200 bed rated capacity                 |
|        | 4. Less than 200 average daily population           |

It should be noted that the Wisconsin Correctional Institution is rated as large, even though it meets only the last two criteria. This was done on the basis that it is set up and staffed as a large institution, and has the capability to become large considering the last two factors, which we have determined to be the most significant in terms of size. For purposes of this ranking, we felt that significant differences in sizes should be used before it becomes a determining factor in the level of the supervisor. Consequently, the small and medium institutions

were grouped together to provide a more significant distinction. The farm and camp jobs were previously correlated at similar levels within the appropriate series, and our consideration here is confined to the institution positions who have administrative program or shift responsibility. The juvenile institutions, Child Care Center, Sparta, and the Home for Women are placed at the medium or small level. However, the program responsibilities are the same and these jobs have been ranked at the same level.

13. The personnel management survey excerpts quoted above are not part of the position standards for Officer 5 and 6 approved by the personnel board.

14. DC I / CSH is a "large" institution for purposes of the Officer 5/6 classifications.

15. The appellants' positions are similar to and approximately equivalent to the Officer 6 positions at KMCI in terms of involvement in the development of policy and procedures, size of the institutions and complexity of problems encountered, and responsibility for multiple administrative programs.

16. The appellants' positions are better described by the Officer 6 position standard and are most appropriately assigned to that classification.

17. The appellants' request for reclassification from Officer 5 to Officer 6 was denied by the respondent, and a timely appeal was taken to this Commission.

#### CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(a), stats.

2. The appellants have the burden of proving that the respondent erred in denying their requests for reclassification from Officer 5 to Officer 6.

3. The appellants have sustained that burden of proof.

4. The respondent erred in denying appellants' request for reclassification from Officer 5 to Officer 6, and they are entitled to said reclassification.

OPINION

The key language from the Officer 6 definition, with respect to this case, is as follows:

This is highly responsible work in supervising the custodial program in a large institution...Employes at this level differ from lower levels by their high degree of involvement in the development of policies and procedures, the greater size of institutions and complexity of problems encountered, and responsibility for multiple administrative programs.

The respondent takes the position that DCI/CSH is not a "large" institution and that the reclassification of appellants' positions is not warranted.

The Officer 6 position standard does not contain a definition of, or criteria for, a "large" institution. The criteria set forth in the personnel management survey were not set forth in the position standard which was approved by the personnel board. Therefore, although the survey criteria may have some relevance to the classification review and this appeal, they cannot be binding in the same manner as were, for example, the numbers in the personnel manager class specifications. See Shepard et al v. DP, Wis. Pers. Commis. Nos. 80-234, 237, 239-PC 96/3/81).

Furthermore, the criteria in the survey are not set forth as absolutes. Thus the Wisconsin Correctional Institution was rated as large even though it met only 2 of the 4 criteria. It is further noted that:

The juvenile institutions, Child Care Center, Sparta, and the Home for Women are placed at the medium or small level. However, the program responsibilities are the same and these jobs have been ranked at the same level. (emphasis added).

While KMCI has a larger average daily population than DCI/CSH, the latter institution has a larger capacity, and a good deal larger workforce and security force. In the opinion of the Commission, the level of complexity and responsibility of the shift supervisor positions at the two institutions

are comparable. The additional function at KMCI of operating as Assistant Cottage Complex Directors is counterbalanced by the dual-role nature of the institution at DCI/CSH and the need to know and work with two different sets of rules, policies, and procedures.

The respondent through his personnel specialist admitted at the hearing that this dual role added to the complexity of appellants' positions but argued that it is temporary in nature and thus cannot support a reclassification. However, the dual-role nature of the institution has been in effect since 1977. Furthermore, he also testified that he refused to consider future growth caused by the future changes in the nature of the institution, which changes presumably also would have the effect of ending the dual nature of the institution, in part because the plans for the institution had changed around a lot and that this resulted in a lack of predictability, and that the conversion of other institutions to take on CSH patients was running one to two years behind schedule. Thus, while the Commission recognizes that as a general proposition positions are not reclassified on the basis of "temporary" job changes, there comes a point after duties have been in place for a number of years and the timing of future changes cannot be predicted with any degree of certainty, that the changes cannot be considered "temporary." In this case, that point has been reached.

The respondent also has argued that the KMCI positions are distinguishable because they are involved in counseling residents. In the opinion of the Commission, the appellants' activities in working with inmates and patients and the development of their custody and treatment programs are on this record comparable to the KMCI positions.



Another point which the respondent argued detracted from the appellants' positions was that there was an administrative lieutenant at CSH/DCI who handled the basic scheduling of a substantial part of the employe discipline and grievance processes. This is of some significance but it must be noted that the Officer 6 position standards appear to contemplate this additional administrative support:

In an institution, positions at this level carry major responsibility on an assigned shift for the security, discipline and order of the institution or for more than one administrative program such as scheduling, admissions, and discharges, training, or other comparable areas."

The record revealed that there were separate officers at the Wisconsin Correctional Institution at Fox Lake, considered a large institution, who handled training, scheduling, admissions, and the segregation facility, respectively.

There was testimony by personnel people from both DHSS and the Division of Personnel that the KMCI positions were reclassified to the Officer 6 level in order to settle another appeal. It was implied that for this reason these positions were not significant in the classification analysis of the DCI/CSH positions here in question. However, the Division having chosen specifically to make those positions Officer 6 and to maintain them at that level thereafter, they presumably are properly classified, and they certainly have not been shown on this record to be improperly classified. Ms. Walluks, a former classification supervisor of the Division of Personnel, testified that if the positions in question were equivalent to the KMCI positions, they should be reclassified to the Officer 6 level. In the opinion of the Commission, the appellants' positions cannot be meaningfully distinguished from the KMCI positions, and their requests for reclassification should have been granted.

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ORDER

The decision of the respondent is rejected and this matter is remanded for action in accordance with this decision.

Dated: March 19, 1982 STATE PERSONNEL COMMISSION

AJT:jmf

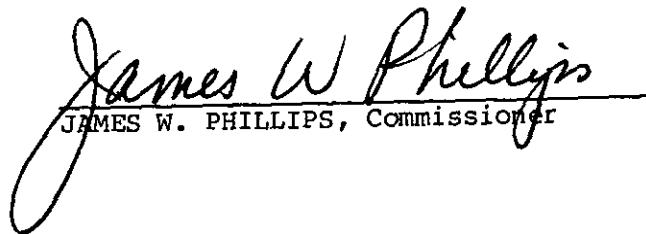
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