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 THOMAS E. BARRY,  
                   Appellant,  
 v.  
 Administrator, DIVISION OF  
 PERSONNEL,  
                   Respondent.  
 Case No. 80-346-PC  
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DECISION AND ORDER

NATURE OF THE CASE

This is an appeal pursuant to s.230.44(1)(a), stats., of the denial of a request to reclassify appellant's position from Personnel Manager 4(PM4) to Personnel Manager 5(PM5).

FINDINGS OF FACT

1. The appellant at all relevant times has been employed in the classified civil service in the position of Director of Personnel Services, University of Wisconsin-Green Bay (UW-GB), classified as Personnel Manager 4 (PM4).

2. During the period relevant to this appeal, there have been about 965 employes at UW-GB, categorized as follows: 195 classified, 300 faculty and academic staff (unclassified), and 470 student (unclassified).

3. The definition section of the class specifications for PM4 include in part the following:

"This is responsible personnel management work in a state agency or institution. Positions allocated to this class function as ... Personnel Manager for a large state institution characterized by 600-800 employes, a diversified organizational and occupational structure, an ongoing contract administration program involving responsibility for several contracts, and ongoing classification and staffing programs ..."

*Original*

4. The definition section of the class specifications for PM5 include in part the following:

"... Personnel Manager for a major State institution characterized by 800 or more employes, a complex organizational and occupational structure, an ongoing contract administration program involving responsibility for the administration of several contracts and ongoing classification and staffing programs."

5. The duties and responsibilities of the appellant's position include, in summary, the administration of a personnel services program in areas involving staffing, classification, payroll, fringe benefits, employment relations, employe development, employe records, retention, affirmative action, governmental employment, and employe assistance programs.

6. The appellant's position is responsible for the full range of personnel management functions, including contract administration, classification, and staffing, for only the 195 classified employes.

7. With respect to the 300 unclassified faculty and academic staff, the appellant performs no contract administration or classification functions but does have some involvement in compensation, fringe benefits and staffing matters and, to a more limited extent, in quasi-disciplinary matters, leave accounting, and other personnel matters.

8. With respect to the 470 unclassified student employes, the appellant performs very limited personnel functions, primarily the administration of the payroll system and serving on a committee on student pay.

9. The appellant's position is better described by the class specifications for PM4 than the class specifications for PM5.

10. The respondent has not failed to uniformly administer the class specifications for the personnel classifications within the UW-System and the state civil service.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this appeal pursuant to s.230.44(1)(a), stats.
2. The appellant has the burden of proof.
3. The appellant has failed to sustain that burden.
4. The administrator's decision to deny the reclassification of appellant's position from PM4 to PM5 was not incorrect.

OPINION

The primary distinction between the PM4 and PM5 classifications is the size of the institutions in question. The key question raised by this appeal has to do with whether to include both classified and unclassified employes in the determination of institutional size.

The term "employee" is defined in the Wisconsin Administrative Code as:

"... any person who receives remuneration for services rendered to the State under an employer-employee relationship in the classified civil service ..." s. Pers 1.02(3), Wis. Adm. Code (emphasis added).

However, despite this definition, the witnesses from the division of personnel were unanimous in their testimony that with respect to the determination of institutional size in the personnel managers series, unclassified employes would be considered to a certain extent depending on the extent to which the personnel manager is involved with personnel functions for these employes. The appellant takes the position that unclassified employes should be considered the same as classified for the determination of institutional size.

In the opinion of the Commission, the language of the class specifications is inconsistent with the notion of counting all employes, including the unclassified, in determining institutional size. The PM5 specifications state that

a major institution is characterized by a number of criteria: "800 or more employees, a complex organizational and occupational structure, an ongoing contract administration program involving responsibility for the administration of several contracts and ongoing classification and staffing programs."

The personnel function at state campuses cannot involve contract administration for unclassified faculty, academic staff, and student employees, because state law does not permit collective bargaining for these groups. The personnel function may have some involvement in classification and staffing for these groups but it is much more limited than in the case of classified employees because of the lack of a formal classification structure for these categories of employee, and the fact that students are limited term employees.

Given these restrictions, it would not be appropriate to equate classified employees, for whom a full range of personnel services as set forth in the specifications are performed, with unclassified employees, for whom only a limited number of personnel services are performed.

This conclusion is consistent with prior decisions of the personnel board and commission cited by the appellant.

In Nunnelee v. Knoll, 75-77, there was a question as to whether student employees should be considered in determining whether the appellant was performing lead work. The board determined that the essence of lead work was the same whether one lead student temporary or permanent employee. In Nell v. DP 78-224-PC, the Commission determined that it was proper to consider LTE's as well as permanent employees in determining whether the denial of a reclassification from Management Information Supervisor 5 to Management Information Supervisor 6 was correct. Based on the facts of that case, particularly

the very technical nature of the work in question, the Commission felt that the supervisory aspects of the job were far more involved with providing technical direction to subordinates, including LTE's, than in disciplinary or other facets of supervision.

In both of these cases, emphasis was on the nature of the duties and responsibilities of the position in question in determining whether to "count" particular categories of employes for reclassification purposes. Likewise, in the instant case, the Commission must focus on the nature of the work performed by the appellant. The personnel work he performs with the faculty and academic staff, while certainly not insignificant, is somewhat less comprehensive, in terms of the key personnel functions mentioned in the the class specifications, than the work performed with respect to the classified employes. However, even if all 300 faculty and academic staff were included on the same footing for classification purposes as the 195 classified employes, the total only would be 495, far short of the requisite 800. Given the very limited personnel function related to the unclassified student employes, the Commission cannot say that the respondent erred in refusing to consider the involvement of appellant's position with unclassified employes sufficient to justify categorizing UW-GB as a "major" institution for classification purposes.

A collateral issue raised by the appellant is whether the specifications for the personnel classifications were uniformly administered within the UW System and within the state civil service. The appellant's contention that such is not the case is not supported by the record.

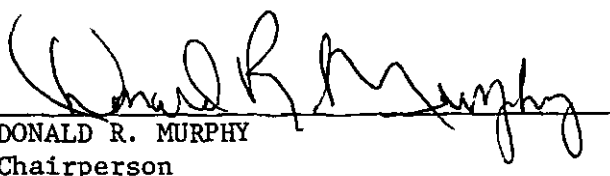
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ORDER

The action of the respondent denying the reclassification request here in question is affirmed and this appeal is dismissed.

Dated: Nov 19, 1981

STATE PERSONNEL COMMISSION

  
DONALD R. MURPHY  
Chairperson

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