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Secretary, DEPARTMENT OF
TRANSPORTATION,
(FRANK E. POTTS),
Appellants,
v.
Administrator, DIVISION
OF PERSONNEL,
Respondent.
Case No. 80-362-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 for reclassification. Both the employe/incumbent of the position in question and the head of the employing agency have joined in the appeal.

FINDINGS OF FACT

1. Mr. Potts at all relevant times has been employed in the classified civil service in the Department of Transportation (DOT).

2. Prior to a DOT reorganization in 1978, the appellant's position was classified as Planning Analyst 4 (PA 4) and was responsible for the administration of the "Elderly and Handicapped Transportation Assistance Program for Private Nonprofit Organizations," authorized under §16(b)(2) of the federal Urban Mass Transportation Act of 1964, as amended ((49 U.S.C. 1612(b)(2)), and §85.22 Wis. stats. (renumbered from former §85.08(6), stats., and amended by Chapter 20, Laws of 1981). The purpose of this program is to provide vehicles to nonprofit corporations for use by elderly and handicapped people.

3. Following the aforesaid reorganization, Mr. Potts also became responsible for two other programs, the county aid program authorized by §85.21, stats. (renumbered from former §85.08(5), stats., by Chapter 20, Laws of 1981), which offers financial assistance to every county in the state for county programs of elderly/handicapped transportation, and the "ridesharing" program, which provides grants and interest-free loans to the public and private sectors to assist in the purchase of vans to be used for ridesharing, and to provide technical assistance in the implementation of ridesharing projects. Prior to 1981, this program was administered solely with funds from the Federal Highway Administration. Chapter 20, Laws of 1981, created §85.24, Wis. stats., to formally establish a state ridesharing program with DOT as the head state agency.

4. As a result of the reorganization, Mr. Potts acquired a supervisory role over three Planning Analysts 3, one Planning Analyst 2 and one Administrative Assistant 3 positions. The classification of his position changed from PA 4 to PA 4-Supervisor, but this did not result in any change in pay range or base salary.

5. The appellant's duties and responsibilities include the administration of the aforesaid three programs. In so doing, he recommends statutory revisions, drafts administrative rules and conducts public hearings on proposed rules pursuant to Chapter 227 of the statutes, conducts hearings and prepares findings on the issue of whether private non-profit agencies should be funded for elderly/handicapped transportation projects when the proposed projects have been disputed by the private sector on the ground that service can be provided adequately by the private sector, consults with the legislature regarding transit aid programs, conducts training

courses and informational meetings for government agencies and the private sector, participates in application approval activities; negotiates, prepares and monitors contracts for consulting services and the provision of equipment, approves financial and performance audits and approves payments to public bodies and private vendors for services rendered and equipment purchased, directs state-wide survey efforts to determine the extent of ridesharing in the state and develops methods for improving and expanding existing programs, directs the program manager in the development of model computer and manual matching systems for ridesharing implementation activities, directs the preparation and distribution of promotional and educational materials and the conduct of other promotional activities with respect to ridesharing, develops regulations and guidelines and supervises staff activities to ensure compatibility with regulations and guidelines of other agencies, both federal and state; coordinates the management of specialized transit aid programs with the management of public transit aid programs, serves as Deputy Co-Chairperson of the Interdepartmental Transportation Coordinating Committee, monitors and develops improvements in the performance and effectiveness of specialized transit systems receiving federal or state aids under programs managed by the section, reviews and comments upon proposed state and federal legislation, regulations, and guidelines, presents state and federal program information to other agencies, local officials, and private corporations; manages special studies and projects, and provides advice and direction to DOT district staff in areas of appellant's expertise.

6. The following are the fiscal 1980-81 amounts administered by the programs administered by the Specialized Transit Section:

- a. County Aid Program: \$2,400,000
- b. Elderly/Handicapped Transportation Assistance Program for Private Non-Profit Organizations: \$757,000
- c. Ridesharing: \$200,000 (approximate)

7. With respect to the County Aid Program, although counties applying for aid must satisfy certain requirements such as holding public hearings on its project plans, the amount of aid received is pursuant to a statutory formula that bases each county's share on the ration of its Elderly/Handicapped population to the Elderly/Handicapped population of the state as a whole.

8. Comparisons between Mr. Potts' position and a number of others are as follows:

- a. Chief of the Public Transit Section, Bureau of Transit, DOT (A01 - James Beckwith, incumbent) (see Respondent's Exhibit 14). This position manages a section responsible for the development, management, and assessment of financial and technical assistance programs for all forms of surface public transportation (except AM TRAK) (FY 80-81, \$27,800,000 in aids and \$335,000 in technical assistance) and includes responsibility for drafting administrative rules and conducting public hearings thereon, reviewing and ruling on requests for urban transit service and tariff schedule changes, and managing transit aid contracts. In determining which applications to fund and in what amounts, this position determines whether to require the applicant to make changes in its operations such as changed routes, fares, etc. This position

supervises two Planning Analysts 3, one Planning Analyst 2, and one Administrative Assistant 3 positions. This position is at a higher level than the appellant's in terms of overall relative level of authority, responsibility, complexity, and impact.

b. Lead Specialist, Public Transit Section, Bureau of Transit, DOT (PA 4 - Richard Martin, incumbent) (see Appellant's Exhibit 23). This position supervises a unit responsible for the administration of the State Urban Mass Transit Operating Assistance Program, the State Urban Mass Transit Capital Grant Program, and a technical assistance program funded through UMTA Section 8 grants, in total amounts in excess of \$25,600,000 (FY 80-81). The duties and responsibilities of this position include the review and evaluation of grant applications, the negotiation of grant contracts with participating local units of government, monitoring of adherence to grant contracts, assisting in the preparation of financial audits, the coordination of financial control and aid payment procedures, the development and maintenance of a computer-based information system for storing, analyzing and reporting transit related information, the preparation of technical studies program applications and processing them with the necessary state and federal agencies, the preparation of requests-for-proposal, the selection of consultants and the preparation of third-party consultant contracts for technical studies, the preparation and processing of grants to local units of government, the management and monitoring of consultant contracts, the establishment and maintenance of

financial controls for the technical studies program, the coordination of technical project audits and closeout activities, providing local units of government with technical assistance in implementing technical studies recommendations, coordinating the management of state-aid and technical assistance programs with corresponding or complementary federal-aid programs, training DOT district personnel and assisting them in fulfilling their responsibilities as they relate to urban public transportation programs, and monitoring the performance and effectiveness of urban transportation systems receiving state and/or local federal aids under programs managed by the urban transit unit. This position is at a similar level to the appellant's in terms of the overall relative level of authority, responsibility, complexity, and impact.

c. Chiefs, Aids Management and Aids Analysis Sections, Bureau of Aids Analysis and Management, DOT (A01 - John Evans and Julie Davis, incumbents) (Appellant's Exhibits 10 and 11). These positions are responsible for the proper distribution of transportation aids to local units of government and serve as the departments' principal advisors in the development of policies, rules, regulations and procedures for administration of Wisconsin's transportation aids. They also are responsible for conducting continuing analysis of the costs of construction and maintenance of the state and local highway systems under the provisions of §86.302, stats., serving as the professional experts for interpretation of these reports before the legislature, various agency units, and groups in the private sector, expressing the viewpoints of the counties and municipalities when policies are established for those transportation aids which are shared between state and local governments through work with governmental

associations, local units of government, the legislature, and other groups, and monitoring and continuously evaluating the department's local transportation aids, policies, and programs and making recommendations for changes. These positions operate similarly except that the emphasis of the Davis position is concerned with aids analysis. These positions are at a similar level to the appellant's in terms of the overall relative level of authority, responsibility, complexity and impact.

d. Chief of Harbors and Waterways, Bureau of Railroads and Harbors, DOT (A01 - vacant) (Appellant's Exhibits 13 and 22). This position is responsible for the administration of the department's water transportation assistance programs, evaluation and suggested modifications of such programs, coordination of department participation in the port, harbor and waterway activities of others, the provision of guidance and expertise in the water, related planning, program and policy development activities of the department, and service as the department's principal authority and resource in matters of commercial waterborne transportation. This position is responsible for developing and maintaining a system for evaluating the need for state-assisted harbor projects and for establishing priorities among eligible projects, giving consideration to their engineering and operational feasibility, their cost effectiveness, and their relative importance in preserving waterborne commerce and local and state economies; conceiving, developing, and carrying out procedures to secure authorized funding for the program under state bond issuances, issuing grants for fundable projects, monitoring grants for contractual consistency, providing guidance and specialized expertise in develop-

ing water transportation-related plans or plan elements in state transportation policy and system planning processes, with particular emphasis on the interface of water transportation with other transportation modes, and working with other agencies and states and the federal government concerning water transportation and harbor matters. This position is at a higher level than the appellant's in terms of overall relative level of authority, responsibility, complexity, and impact.

e. Federal Grants Coordinator, Bureau of Planning Division of Policy and Budget, Department of Health and Social Services, (DHSS) (PA 4 - Tom Moore, incumbent) (Respondent's Exhibit 11). This position develops and operates department procedures and processes for reviewing and advising the Secretary on all state-federal plans and grants and serves as a lead worker in these reviews, develops and stimulates new grant proposals in areas of high priority, monitors key projects and programs using federal funds, and develops and operates ongoing training programs in efforts to upgrade plan preparation and grant development processes. This position is at a similar level to the appellant's in terms of the overall relative level of authority, responsibility, complexity, and impact.

f. Chief of Program Management Section, Bureau of Water Grants, Department of Natural Resources (DNR) (A01 - Marjorie Devereaux, incumbent) (Respondent's Exhibit 13). This position is responsible for the management of the activities of the Project Management Section which includes review of state and federal grant applications totalling approximately \$140,000,000 per year, grant eligibility determinations and overall grant monitoring and coordination, and acts as a major

policy advisor to the Bureau Director and Director of the Office of Intergovernmental Programs. Within these general responsibilities, this position directs the activities involved in review of bidding documents for construction grant activities, directs the activities involved in review of architectural engineering subagreements, manages and directs a staff of nine professional positions, and serves as the bureau's Wisconsin-EPA liaison on all matters. This position is at a higher level than appellant's in terms of overall relative level of authority, responsibility, complexity and impact.

g. Director of Bureau of Energy Conservation, Division of Economic Opportunity, DLAD (A01 - Barry Wanner, incumbent) (Respondent's Exhibit 16). This position is responsible for administering the Weatherization Assistance Program for low income persons, with control over in excess of \$10,000,000 annually. It directs the preparation and submission of funding applications, contract monitoring, and program evaluation, and is responsible for coordination of the program with other state and federal agencies, and for the operation of the program in accordance with complex federal welfare regulations. It supervises four Administrative Assistants 4, one Planning Analyst 2, and one Administrative Secretary 1. This position is at a higher level than the appellant's in terms of overall relative level of authority, responsibility, complexity, and impact.

h. Conservation Program Manager, Division of State Energy, DOA (PA 5 - Robin Gates, incumbent) (Respondent's Exhibit 19). This position is responsible for the development of energy conservation policy

and the planning and management of energy conservation programs, including the State Energy Conservation Plan, Energy Extension Service, Institutional Buildings Grants Program, and Residential Conservation Service. This involves the negotiation and preparation of contracts, the designing and direction of conservation program needs assessment and program evaluation studies, and developing, preparing, and submitting energy conservation plans as required by the Department of Energy. This position supervises one Planning Analyst 4, two Planning Analysts 3, one Research Assistant 4, one Program Assistant 3, and one Program Assistant 2, and administers approximately \$10,000,000 in grant funds. This position is at a higher level than the appellant's in terms of overall relative level of authority, responsibility, complexity, and impact.

i. Training, Employment and Special Projects Coordinator, Bureau of Aging, DHSS (AA 5 - Supervisor - Jack Loman, incumbent) (Respondent's Exhibit 20). This position is responsible for administration of the federal Foster Grandparent Program, funded at \$625,000 annually, the Older Workers Community Services Employment Program, funded at \$728,000 annually, and the federal Training and Manpower Development program, funded at \$128,000 annually. This involves the provision of technical assistance, consultation, and project monitoring to local agencies, the preparation of the department's applications to the federal government for renewal of grant awards, and coordination with various other agencies having interrelated responsibilities. This position also directs special projects for the bureau in the areas of natural

disaster assistance planning and preparation, and emergency energy assistance and preparation. This involves planning, inter-agency and other coordination, and conduct of training. This position supervises one Administrative Assistant 4 and two administrative Assistants 3. This position is at a similar level to the appellant's in terms of the overall relative level of authority, responsibility, complexity, and impact.

9. The class specifications for Planning Analyst 4 (Respondent's Exhibit 8) contain the following definition:

Definition:

This is lead professional or specialist level professional planning work requiring skills from a variety of educational backgrounds which may be applied in one of three specific programs: Agency Planning, Local and Regional Planning, Statewide Comprehensive Planning.

Agency Planner

Employees in this class perform work characterized by responsibility for specialized planning studies of a policy nature. The employee independently carries out major studies and often supervises several lower level agency planners in the conduct of the study.

10. The class specifications for Administrative Officer 1 (Respondent's Exhibit 10) contain the following definition:

Definition:

This is responsible and difficult administrative and/or advanced staff assistance work in a major state agency. Employees in this class are responsible for directing important phases of the department's program and/or for providing staff services in a variety of management areas. Work may involve assisting in the formulation of the agency's policies, the preparation of the budget, responsibility for fiscal management, physical plant, operating procedures, personnel and other management functions. Employees supervise a staff of technical and/or professional assistants and have a wide latitude for planning and decision making guided by laws, rules and departmental policy. Direction received is of

a broad and general nature and the work is reviewed by administrative superiors through reports and conferences.

11. The position occupied by Mr. Potts is more appropriately classified as a PA 4 than as an A01.

CONCLUSIONS OF LAW

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

2. The appellants have the burden of proving that the respondent erred in denying the request to reclassify Mr. Potts' position to A01.

3. The appellants did not satisfy their burden of proof.

4. The respondent did not err in denying the request to reclassify Mr. Potts' position to A01.

OPINION

This appeal involves a difficult classification question. Both the PA4 and the A01 class specifications contain certain general language that is of limited use in determining whether the correct classification decision was made. This leads to heavy reliance on comparisons of the position in question to other positions in various classifications. In turn, it is difficult to compare positions that administer different programs in different agencies or agency subdivisions, some of which are described only by relatively uninformative position descriptions.

With respect to the class specifications of the classifications in question, the PA4 definition does not appear to be particularly appropriate for this position. It refers to "planning work," and, under "Agency Planner," which the respondent felt was the most appropriate specific type, it refers to "specialized planning studies of a policy nature." Although the appellant's position has some planning responsibilities, it also is

concerned with program administration.

On the other hand, the respondent presented testimony, and other evidence in the form of position descriptions, to the effect that because of the mixture of planning and program administration elements in many jobs, many such positions are classified in the PA series. Also, the issue in this case is limited to a choice between PA 4 and A01. Even if the PA4 classification were not seen as particularly appropriate, the record must support a finding that the A01 classification is more appropriate before it could be concluded that the respondent erred in denying the reclassification request.

As testified by the respondent's expert witnesses, the A01 class specifications are quite general in nature, and comparison of the appellant's position to others is a necessary and useful part of the classification analysis. To this end, each party introduced a substantial number of position descriptions. The Commission has entered findings with respect to those felt to be of significant probative value.

Mr. Beckwith's A01 position of head of the Public Transit Section in the Bureau of Transit is of particular interest because he and Mr. Potts head the two sections in the bureau. The bureau director testified that the two positions are "generically identical" as to duties and responsibilities. However, there are differences between the two positions.

Mr. Beckwith's section administers approximately four times the amount of money as Mr. Potts' section does. This factor goes to the size or importance of the programs administered and is a legitimate criterion in evaluating the relative classification levels of positions. The larger grants administered indicate greater responsibility or accountability,

impact of decisions, and consequence of error.¹ Compare, Paul v. Wettengel, Wis. Pers. Bd. 73-65 (11/22/74); Dworak v. DP, 79-PC-CS-198 (2/9/82).

Another significant factor with respect to Mr. Beckwith's position is that it receives less guidance in funding decisions from mathematical formulas, and has more input into the actual operations of the grant applicants, than does Mr. Potts' position.

Looking at the two positions from an overall perspective, on this record the evidence supports a finding that, notwithstanding that both positions head sections in the same bureau, Mr. Beckwith's position is at a higher classification level than Mr. Potts' position.

Another important comparison is with Mr. Martin's PA4 position as lead worker in Mr. Beckwith's section. Again notwithstanding the difference in organizational levels, the record supports a finding that his position is comparable as to classification level to that of Mr. Potts'. While Mr. Martin has a lower level of accountability than Mr. Potts, he handles a larger program with a greater amount of funds, and the specific tasks he performs compare favorably with those associated with Mr. Potts' position.

The positions directing the Aids Management and Aids Analysis sections of the Bureau of Aids Analysis and Management (A01 - Evans and Davis) are somewhat difficult to analyze because of the similarities of their position descriptions. There was testimony that they were similar in operation except that the Davis position was more concerned with aids analysis. Although their aggregate program appears to have more breadth and impact

¹ Program size must be distinguished from the volume of work handled by a position, which usually is not considered in the classification evaluation process--for example, a highly skilled claims processor might be able to process more claims and thus a greater total dollar amount than a less skilled processor, but this normally would not impact on the classification level of the position.

than Mr. Potts', this is offset by the fact of the shared responsibility, and these positions may be said to be roughly comparable to Mr. Potts' position.

The Chief of Harbors and Waterways Position (A01 -vacant) is concerned with more complex, technical issues than appellant's position. The Federal Grants Coordinator position, in the Bureau of Planning, Division of Policy and Budget, DHSS (PA4 - Moore) is more planning oriented than Mr. Potts' position, but does have functions in grant development and project monitoring, and is department-wide in scope.

The Chief of the Program Management Section, Bureau of Water Grants (DNR) (A01 - Devereaux) is a significantly stronger position than that of Mr. Potts'. It involves a much larger amount of program dollars and is involved in more complex bidding and contracting activities. The position of Director of the Bureau of Energy Conservation, Division of Economic Opportunity, DLAD (A01 - Wanner) is responsible for a larger program with more funding. The position of Conservation Program Manager, Division of State Energy, DOA (PA5 - Gates) is responsible for the development of policy and planning for a diverse group of conservation programs, as well as program management, and is responsible for administering about \$10,000,000 in grant funds, substantially more than is associated with Mr. Potts' position. The position of Training, Employment, and Special Projects Coordinator, Bureau of Aging, DHSS (AA5 - Loman) compares favorably to Mr. Potts' position. It too is responsible for the administration of a number of relatively small programs and it performs a number of functions similar to Mr. Potts. While the AA5 classification is not included in the issue, it is at the same salary range as PA4 and a comparison involving this AA5 position is probative.

Another aspect to this case is that it is clear that Mr. Potts' position has grown appreciably over the last several years. However, the existence of growth does not automatically take a position into a higher classification. In this case, as in all such cases, the appellants have the burden of proof and must establish by the preponderance or greater weight of the evidence that the respondent erred when he refused to reclassify Mr. Potts' position to A01. While the appellants were able to make certain favorable position comparisons, there were a number of unfavorable comparisons, including the most material ones within Mr. Potts' own bureau. It is clear from this record that there are a number of stronger A01 positions than Mr. Potts'. Although it is a close question, the Commission cannot conclude that the respondent erred when he denied the reclassification of this position to A01.

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ORDER

The action of the respondent is affirmed and this appeal is
dismissed.

Dated: June 25, 1982 STATE PERSONNEL COMMISSION

AJT:jmf


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner


JAMES W. PHILLIPS, Commissioner

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