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 ALAN CZESHINSKI,  
 Appellant,  
 v.  
 Administrator, DIVISION OF  
 PERSONNEL,  
 Respondent.  
 Case No. 80-6-PC  
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**OFFICIAL**

DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal of the reallocation of appellant's position. A hearing on this appeal was held by Commissioner Gordon H. Brehm, on October 29, 1980. Following the hearing, the parties agreed to submit briefs but only the appellant did so.

FINDINGS OF FACT

1. The appellant has at all times relevant herein been an employe in the classified civil service with the Department of Natural Resources, Bureau of Air Management.
2. Appellant's position was reallocated from Management Information Technician 3 (PR 6-10) to Program Assistant 4 (PR 2-09) as part of a state-wide data processing survey in October, 1979.
3. Appellant was notified of the reallocation on December 19, 1979, and subsequently filed an appeal of the reallocation decision with the Commission on January 7, 1980 (Commission's Exhibit 1).
4. Following an audit of appellant's position by respondent, the appellant's position was reallocated to Environmental Specialist 4 (PR 15-04), effective October 7, 1979 (Respondent's Exhibit 2).

5. The parties agreed at the beginning of the hearing to the following issue in this appeal: "Whether or not the reallocation of appellant's position from Program Assistant 4 to Environmental Specialist 4 was correct. If not, should appellant's position be classified as Environmental Specialist 4 or Environmental Specialist 5?"

6. Appellant's duties consist of coordinating the development of the annual Wisconsin Air Emissions Inventory, directing the air portion of the Environmental Fee Program (Chapter NR 101) and to monitor the development of a new computerized Air Permit system and modified Air Emissions Inventory system (Respondent's Exhibit 1).

7. The duties and responsibilities of appellant's position are very similar to a Water Pollution Surveillance Specialist position (formerly held by one Charles Case) in the Department of Natural Resources, which is classified as an Environmental Specialist 5..

8. The relevant Position Standards for the Environmental Specialist Classification series are as follows:

ENVIRONMENTAL SPECIALIST 4 (PR 15-04)

Definition:

This is very responsible environmental specialist work. Positions allocated to this class basically function as: 1) a leadworker responsible for the implementation of an environmental program in a portion of the district where the extensiveness and complexity of the program easily distinguishes it from the basic objective level assistant specialist at the Environmental Specialist 3 level; 2) a specialist in a district responsible for planning, coordinating, and implementing a specialized environmental program of narrow scope (i.e. treatment plant operator instruction);

3) a lead worker in the central administrative office responsible for a comprehensive statewide environmental program (i.e. environmental impact development or review, environmental compliance); 4) a program assistant in the central administrative office with specific subprogram responsibility in a statewide environmental program of standard scope (i.e. non-point source pollution, inland lake renewal).

ENVIRONMENTAL SPECIALIST 5 (PR 15-05)

Definition:

This is responsible environmental program coordinative work. Positions allocated to this class typically function out of the central administrative office and are responsible for planning, monitoring, and implementing a very specialized aspect of a major environmental program. Work at this level is performed under the general direction of a Deputy Bureau Director.

(Respondent's Exhibit 5)

9. The duties and responsibilities of appellant's position are better described by the position standards for Environmental Specialist 5 than by Environmental Specialist 4.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to Section 230.44(1)(a), Wisconsin Statutes.

2. The appellant has the burden of proving that the respondent's action in reallocating appellant's position from Program Assistant 4 to Environmental Specialist 4 was not correct.

3. Appellant has met that burden of proof.

4. Respondent's action in denying appellant's request to reallocate his position to Environmental Specialist 5 was not correct.

OPINION

The focus of appellant's argument that his position should properly be classified as an Environmental Specialist 5 rather than an Environmental Specialist 4 centered on the fact that the most nearly equivalent position to his own in the state classified service is an Environmental Specialist 5 position in the Department of Natural Resources, Bureau of Water Quality. This position was formerly held by Charles Case.

Lee Isaacson, a personnel specialist for the State Division of Personnel, audited the appellant's position and agreed that "a majority of my analysis (during the audit) centered on the comparison to the Environmental Specialist 5 position in Water Quality."

Mr. Isaacson agreed that "I don't believe that there is any further question as to the fact that your (appellant's) position is functionally performing similar work as that of the Environmental Specialist 5 position in Water Quality, formerly occupied by Charles Case." (Respondent's Exhibit 2)

Mr. Isaacson pointed out, however, that he found a number of differences in the two positions, namely:

- 1) The Water Quality position functions as a leadworker, responsible for at least two other Environmental Specialists.
- 2) The Water Quality position is responsible for fee collections for both the air and water pollution control programs, except where fees are assessed on a facility only for air emissions.

- 3) The amount of money collected by each program is significantly different. The air program collections amount to about \$370,000 annually, compared to about \$1,000,000 collected through the water program.
- 4) The number of localities being assessed fees is larger in the water program, with about 1,300 paying fees, compared to about 1,000 in the air program.

Mr. Isaacson explained that, "With the possible exception of the leadwork functions, none of these differences in and of themselves would indicate your position should be at a lower level, however, when taken in total, the differences do indeed seem to be significant enough to indicate that a difference in class level is appropriate." (Respondent's Exhibit 2)

Mr. Ronald F. Theiler, Director of the Bureau of Air Management, testified that "the program responsibilities for the two positions were very similar" and that he believes the appellant's position "requires a great degree of technical knowledge." He explained that in the water program, the Environmental Specialist 5 position merely receives and records data sent in by the facilities, while in the Air Program the appellant must serve as a "quality control" checkpoint by reviewing the data sent in by the Department of Natural Resources engineers, who make the emissions calculations to determine the proper fees. This requires the appellant to know how the calculations are made in order to insure the proper fees are determined.

Mr. Theiler contended that the amount of money being collected and the number of facilities assessed is not an important consideration, since the air program is not designed to be a revenue-generating program. He also pointed out that the appellant is the project administrator and is the sole person responsible for the new computerized Air Emission Permit System, which accounts for about 40% of his work time and are duties not assigned to the water control position.

In view of all the evidence submitted, the Commission concludes that the duties and responsibilities of the appellant's position are more closely described by the Position Standard for Environmental Specialist 5 than for Environmental Specialist 4, and appellant should be reallocated to Environmental Specialist 5, effective October 7, 1979.

ORDER

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

Dated: April 10, 1981

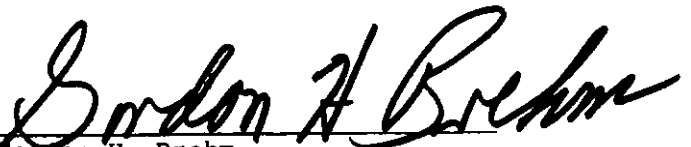
STATE PERSONNEL COMMISSION

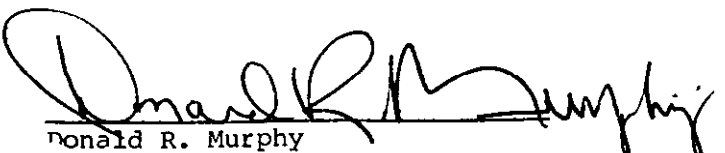
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