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 MIRIAM KERNDT,
 Appellant,
 v.
 Administrator, DIVISION OF
 PERSONNEL,
 Respondent.
 Case No. 81-151-PC
 * * * * *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(a), stats., of the reallocation of a position in the classified civil service. The appellant in this case is the supervisor (on the academic staff at the UW-Madison) of the position (Library Services Assistant - LSA) which was reallocated from a Library Technician to Library Services Assistant 3. Through an Interim Decision and Order of the Commission (July 21, 1981) and an Order of the Commission (March 19, 1982), the appellant, Ms. Kerndt, was found to have standing as a party in the instant matter and entitled to proceed with this case, #81-151-PC.^{FN}

FINDINGS OF FACT

1. The position in question has at all relevant times existed at the Geography Library at the University of Wisconsin-Madison and has been a classified civil service position.

FN Pursuant to the request of the respondent and absent any objection by the appellant, the Commission has added an effective date for the reallocation decision to Finding of Fact #2. The date was not included in the Proposed Decision. Also, upon the request of the appellant, the Commission has excised four sentences of dicta from the last paragraph of the Opinion section of the Proposed Decision.

2. As a result of a personnel management survey of library positions conducted by the respondent, the position was reallocated from Library Technician to Library Services Assistant 3 (LSA 3) effective February 8, 1981.

3., An incumbent of the LSA position at the UW-Madison Geography Library directly assists a library professional (Ms. Kerndt) in all areas of a "branch" library. With the exception of student help, this incumbent is the sole assistant to the library professional.

4. The LSA position at the Geography Library is not responsible on an ongoing basis for complex and specialized library functions in a foreign language.

5. In the absence of the Librarian, the Geography LSA is responsible for maintaining library service and for overseeing the security of the library collection and physical plant.

6. The Geography Library on the UW-Madison campus is not considered a "major library" for classification purposes by the respondent.

7. The position standard for Library Services Assistant contains the following class descriptions:

Library Services Assistant 3

This is paraprofessional and/or advanced clerical support work in a specialized subunit of a library. Positions allocated to this level are responsible for a recognized program activity or subunit which requires expertise in specific program activities or technical library practices and procedures. Positions functioning at this level may direct the activities of the circulation or loan desk, reserve desk, audio visual center, or assist in the performance of cataloging activities or other comparable subunit or program activities. Also allocated to this level are those positions who directly assist a library professional in all areas of a branch or departmental library. Work is performed under general supervision and may include lead work responsibilities for a small number of lower level employees.

Library Services Assistant 4

This is paraprofessional support work in a library. Positions allocated to this level are: 1) independently accountable for a recognized programmatic activity or area of the library such as lead worker over a circulation desk during a shift where there are no other higher level library professionals; 2) directly accountable to a unit head with responsibility for a recognized program activity or area of a major library such as being independently responsible for the operation of a periodical room, bindery operation or reserve book room; 3) positions which are responsible on an ongoing basis for complex and specialized library functions in a foreign language. Work at this level requires a thorough knowledge of the activity, program or specialty area. Work is performed under general supervision.

8. The Geography Library LSA position supervised by the appellant is better described by the Library Services Assistant 3 class description and is more appropriately classified at that level.

CONCLUSIONS OF LAW

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

2. The appellant has the burden of proving by the preponderance of the evidence that the respondent erred in reallocating the position in question to LSA 3 rather than LSA 4.

3. The appellant has not sustained that burden.

4. The respondent's decision to reallocate the Geography Library LSA position to LSA 3 instead of LSA 4 was not erroneous.

OPINION

The appellant, a highly professional and experienced geographer and librarian, supports her case that the Library Services Assistant at the UW-Madison Geography Library should be classified at the 4 level through a presentation of testimony and exhibits which, among other things, asserts:

a) The broad and interdisciplinary nature of the field of geography

- b) The national and international reputation and stature of the UW Geography Department
- c) The high utilization of the library by undergraduates due to the way in which geography is taught at the UW
- d). The requirement that the assistant be knowledgeable in the field of geography

As uncontested and/or persuasive as these arguments might be, they do not offer information which is determinative to the issue at hand before the forum in which they have been proffered. The Commission is restricted, in making decisions regarding classifications, to applying position standards and the class descriptions contained therein which have been approved by the Personnel Board. It is the the position standard and class descriptions for the LSA series to which the Commission must refer in deciding the instant matter.

The class description of the LSA 4 (see Finding of Fact #7) indicates there are three recognized categories of LSA 4. Category #1 is not applicable to the position in question because the librarian (supervisor) is usually available. Notwithstanding the demands on the librarian which do take her out of the library on occasion, the LSA is not working a shift to which no supervisor is regularly assigned. Category #3 is not applicable because the Geography LSA does not have responsibilities, on an ongoing basis, for complex and specialized functions in a foreign language . Absent wording like "such as a foreign language" or "similar to a foreign language" in the standard, the Commission is precluded from equating the geography knowledge requirement with the recognition given the language requirement of the LSA 4 level. The singular recognition of a foreign language relative to

this classification series and its position standard was indicated to the Personnel Board when the Board was considering the series standard and was approved by the Board (see Respondent's Exhibit #1 pp. 3 and 4).

The Geography LSA position, therefore, would have to fulfill the requirements of Category #2 of the class description in order for the position to be classified at the LSA 4 level. To meet the requirement of Category #2 the Geography Library would have to be considered, for classification purposes a "major" library. The respondent considers it a "branch" library (Respondent's Exhibit #2) and the appellant also indicates it is a "branch library" (Commission's Exhibits #1,2). Appellant asserts however, that the Geography LSA position and its content compares favorably with positions at the "major libraries" which are at the LSA 4 level, and objects that " the Geography Library reallocation was based on library status and number of staff alone, and the position requirements comparable to those for positions in these two libraries [Memorial and College] were ignored." (Commission's Exhibit 1, pg. 2). This argument is identical to the appellants' argument in cases decided by the Commission regarding positions at the UW-Madison Chemistry and Business Libraries. In Lewis & Myers v. DP, 81-154,156-PC (7/26/82) the Commission stated:

The classification question in the case is very narrow. As is set forth in the appellants' post-hearing brief, the appellants' positions would fall under either the LSA 3 position standards language, "... directly assist a library professional in all areas of a ... branch library," or the LSA 4 language, "... directly accountable to a unit head with responsibility for a recognized program or area of a major library."

The appellants argue that this reliance on the distinction between "major" and "branch" libraries is inappropriate:

The Division of Personnel apparently has arbitrarily chosen work sites as the single most important classification factor. In fact, in this case, as the sole class factor, if it is the

intention of the Division to use work site as the only factor in determining classification for some positions, it should be listed in the class factors [see LSA Position Standard].

However, a review of the classification factors set forth in the [LSA Position Standard] shows that the classification factors are composed of general principles such as "diversity, complexity, and scope of the assigned programs, project, staff responsibilities, or activities." The class descriptions, which contain the more specific definitional language, are prefaced by the following comment:

The following class descriptions define the basic concept for each classification level. As previously mentioned, several different areas of specialization and position categories exist within this occupational area and it is recognized that this position standard cannot describe every eventuality or combination of duties and responsibilities. Therefore, these class descriptions are also intended to be used as a framework within which positions not specifically defined can be equitably [sic] on a class factor comparison basis with other positions which have been specifically allocated. (emphasis added)

It would appear that while the "classification factors" are not to be ignored in determining the classification of a position, these are of secondary importance to specific definitions within the class descriptions, which, in turn, define positions that "directly assists a library professional in all areas of a branch or departmental library" as LSA 3, and positions that are "directly accountable to a unit head with responsibility for a recognized program activity or area of a major library" as LSA 4.

The respondent's use of quantitative characteristics (size of plant, number of users, number of staff, number of volumes) to define "major library" was dealt with in McClements v. DP, 81-167-PC: "Quantitative factors such as have been used here are legitimate criteria in evaluating the relative classification levels of positions. See, e.g., Paul v. Wettengal, Wis. Pers. Bd. No. 73-65 (11/22/74); Dworak v. DP, Wis. Pers. Commn. No. 79-PC-CS-198 (2/9/82)."

While not rejecting appellant's assertion that the Geography LSA encounters a broad range of complex questions and problems with which to deal, the Commission, nonetheless, concludes that inherent to "assist a library professional in all areas of a branch or departmental library" (LSA 3 Class

Description, Respondent's Exhibit #1, emphasis added) could be such complex questions and problems. Thus, the LSA 3 position standard anticipates an LSA 3 position functioning the way the Geography LSA functions.

It is to the appellant's credit that she has met and continues to meet the requirements of providing a high level of geographical librarianship to the Department of Geography at the UW. The Commission does not doubt her assertion that the position incumbents [LSA] have been highly qualified and have performed at a high level of competence. It is understandable that, as the appellant testified, her requirements on the Geography LSA reflect the "need for support of the librarian's responsibility to provide a high level of geographical librarianship to the Department of Geography." However, the state's system of classification is designed to classify positions not people, and the classification question in this case, as in the McClements and Lewis & Myers cases cited, is a very narrow one - that of "major" as opposed to "branch" library; the LSA position at the Geography Library is a Library Services Assistant 3 position.

The Commission cannot take up the questions raised by the appellant as to whether or not the standards themselves are correct or appropriate. The limitations on the Commission in this respect were most recently stated in a decision of the Dane County Circuit Court dated November 2nd, 1982 (Zhe, Hodek, Peterson and Reinhart v. Wisconsin State Personnel Commission, Case No 81 CV 6492). With regard to changing or rewriting class specifications the court stated, "The legislature gave rewriting duties to the administrator and Personnel Board. If this power was intended for the Commission it would have been more apparent than the language of sec. 230.44, Wis. Stats." (Zhe, et al v. Wisconsin Personnel Commission, 81 CV 6492).

ORDER

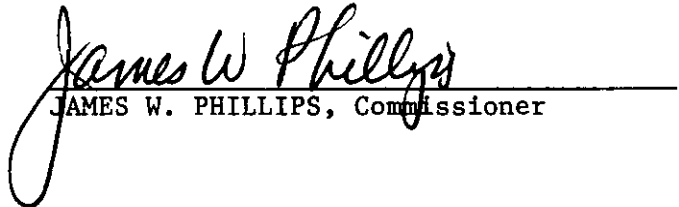
The action of the respondent reallocating the appellant's position from Library Technician to Library Assistant 3 is affirmed and this appeal is dismissed.

Dated: January 10, 1983

STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner


JAMES W. PHILLIPS, Commissioner

JWP:ers

Parties

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