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 *
 JERRY WEBER, *
 *
 Appellant, *
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 v. *
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 Secretary, DEPARTMENT OF *
 TRANSPORTATION, and *
 Administrator, DIVISION OF *
 PERSONNEL, *
 *
 Respondents. *
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 Case No. 81-499-PC *
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DECISION
 AND
 ORDER

This matter is before the Commission as an appeal from respondent's decision denying the reclassification of appellant's position. At a prehearing conference, the parties agreed to the following issue for determination:

Whether the decision of the respondent denying the reclassification of the appellant's position from State Patrol Trooper 2 to Trooper 3 was correct. Subissue: What constitutes "inservice training" as that term is used by the administrator in the criteria for progression.

The parties waived a hearing and, instead, submitted documents and written arguments in support of their respective positions.

FINDINGS OF FACT

1. Jerry L. Weber was appointed as an Enforcement Cadet on May 22, 1978, and was a member of the 27th recruit training class.
2. Mr. Weber was appointed a Trooper 1 effective November 5, 1978, and was reclassified to Trooper 2 effective September 21, 1980.
3. Mr. Weber attended annual trooper inservice training at the state patrol academy on April 23-27, 1979, April 14-18, 1980, and March 23-27, 1981, and passed the examinations given at the end of each session.
4. Mr. Weber attended a radar operator training course at the state

patrol academy on October 19-23, 1981, and passed the examination at the end of the course. Mr. Weber was paid for his attendance and wore his state patrol uniform while attending this training course.

5. Mr. Weber's job performance has been above average.

6. Mr. Weber would receive a favorable recommendation from his supervisor if he met the training requirement for reclassification from Trooper 2 to 3.

7. Reclassification from the Trooper 2 to Trooper 3 classification is based upon "[s]atisfactory attainment of a specified training, education or experience" (§Pers. 3.01(3)(b), Wis. Adm. Code) rather than a "logical and gradual change to the duties or responsibilities of a position." (§Pers. 3.01(3)(a), Wis. Adm. Code.

8. The following requirements have been established for a trooper to be reclassified from the 2 to the 3 level. The individual must:

- a. already be a Trooper 2,
- b. complete 60 hours of additional inservice training and must pass the examinations given at the end of each of the two 30 hour sessions,
- c. perform at the objective level for a period of at least 12 months prior to reclassification, and
- d. receive favorable recommendations from his or her supervisor and the district commander.

9. Training provided by the Division of State Patrol, Department of Transportation consists of three types: basic recruit training, annual trooper inservice training and specialized training.

10. Annual trooper inservice training is required of all state troopers and consists of 30 hours of instruction presented over a one-week period each year.

11. Specialized training courses in particular skills are not required but are occasionally provided to a limited number of troopers.

12. The radar operator training course attended by Jerry Weber in October 1981 was a specialized training course and was not inservice training.

13. Appellant did not meet the training requirements established as a prerequisite to reclassification from Trooper 2 to Trooper 3.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(b), Wis. Stats.

2. The appellant has the burden of proving that respondents' decision denying the reclassification of appellant's position from Trooper 2 to Trooper 3 was incorrect.

3. The appellant has failed to meet that burden of proof.

4. Respondents' decision denying appellant's reclassification was correct.

OPINION

The materials that were submitted in this matter indicate that the appellant is an excellent trooper who, with the exception of the 60 hours of annual inservice training, met the requirements for reclassification from the Trooper 2 to Trooper 3 level. The appellant's theory is that successful completion of a five day Police Traffic Radar Training Course held at State Patrol Academy should count towards fulfillment of the 60 hour inservice requirement.

The existence of this appeal suggests that the respondent DOT would benefit by issuing written reclassification requirements that would provide a specific definition of the term "inservice training." However, in the absence of a written definition, the Commission finds it appropriate to rely on the affidavit of the Director of Training at the State Patrol who distinguished between annual inservice training and specialized training in Findings of Fact 9 through 12, above. This distinction is also apparent from the titles of the contested courses as found on the class schedules: Police Traffic Radar Course vs. Trooper Inservice Training. The Commission further concludes that the distinction drawn by the Director of Training is a reasonable one in that it assures the satisfactory completion of two annual training sessions covering a broad range of trooper responsibilities prior to reclassification.

ORDER

Respondent's decision denying the reclassification of appellant's position is affirmed and the appeal is dismissed.

Dated: June 10, 1982

STATE PERSONNEL COMMISSION

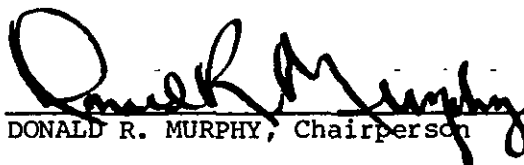
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