

STATE OF WISCONSIN

PERSONNEL COMMISSION

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HAROLD L. GALBRAITH

Appellant,

v.

Administrator, DIVISION
OF PERSONNEL,

Respondent.

Case No. 82-55-PC

* * * * *

DECISION
AND
ORDER

This matter is before the Commission following the issuance of a proposed decision and order and the filing by both parties of objections and arguments with respect thereto. The Commission has consulted with the hearing examiner.

The Commission adopts as its findings of fact the findings of fact set forth in the proposed decision and order, with the following changes which are made for the reasons set forth:

Finding #8, lines 8 - 9 is changed from:

... registration renewal processing, which includes the handling of the most straightforward, 'cleanest' registration renewal applications....

to read:

... registration renewal processing, which includes the handling of all registration renewal applications....

The proposed finding is based essentially on the testimony of Mr. Schimming, the Director of the Bureau of Central Office Services, who testified regarding changes in the registration renewal process. This testimony was somewhat confusing because he referred to the "creation" of a "renewal audit unit." It is relatively clear from the overall context of his testimony and other evidence, however, that this is a reference to the renewal processing unit within the appellant's section which now handles both the straightforward and more complicated registration renewal applications.

See testimony of Mr. Schimming on tape 1:

That renewal processing unit was formed in June of 1980. Prior to that, there were renewal activities for heavy trucks and some specialized vehicles in what we called a truck title processing unit. There were renewal processing functions -- that unit by the way is in the, what is today the title processing section -- there were some renewal functions in another unit, which was called the renewal processing unit as I recall, within the title processing section, and the most straightforward, clean applications were processed in the application pre-audit unit which Harry controlled. These were the clean applications. They were sorted, the mail was opened, they were sorted, the fees were verified to the applications, and they were sent through a very automated system. The system that we used at that particular time assigned either stickers validated to the - renewal - the registration applications for the issuance of stickers which went through the inserting machine, also in Harry's license plate issue unit, and they were relatively untouched by human hands, so to speak. The money was removed in the application pre-audit unit also, and because of the like fees with our \$18.00 and \$25.00 vehicle registrations on those simple applications, it was a very simple matter to run the applications and checks through machines, counting the numbers of checks and the numbers of applications, reconciling in that manner, and depositing the fee. One portion of that registration notice then was sent on to the division of business management systems and data processing, the applications were scanned and the files were updated.

The balance, or the more complicated applications were sent up to what is now the renewal audit unit. These are inspected by processing people for - excuse me, I'm missing my point here. With the creation then of a renewal audit unit, these various activities were brought together, and people were brought together, under the renewal audit unit. Those exceptional, or more difficult applications then are forwarded from the application pre-audit unit or mail unit up to renewal audit unit where they are audited, compared for fees and such things as have been discussed already here; license numbers, or the type of license is assigned, which was not discussed prior. The renewal notices or the certificates of registration are validated for subsequent mailing of license stickers to the applicants. These registration renewal notices again then go down to our inserting room where they are inserted automatically by machine and - in the case of a license plate issue, it goes on to the license plate issuance unit.

I guess I'm discussing this because it was a logical thing to do at the time of reorganization, to bring all of these things together under the supervision, responsibility of one manager, and that this is indicative that this is a program and not a support function as has been implied in some statements

Finding #11.a., lines 26-27, are changed from:

... This position supervises 22 employees including a Shipping and Mailing Supervisor 2 and a Stores Supervisor 3.

to read:

... This position supervises 14 employees including a Stores Supervisor 3.

The proposed finding was based on the supervisory analysis form attached to Respondent's Exhibit 3, which was signed by the appointing authority on August 13, 1979. Other testimony and evidence of record clearly establishes that in 1980 the departmental postal services operation and its attendant employees were transferred to Mr. Galbraith's section. See, e.g., Appellant's Exhibit 1.

Finding of Fact #11.e. is deleted and the following is substituted in its place:

11.e. Chief of Title Processing Section, Bureau of Central Office Services, Division of Motor Vehicles, DOT, William Slightam, incumbent, classified as an AA-5. This position manages the 'one-stop' title processing operation, and is responsible for the initial registration of motor vehicles and the issuance of all motor vehicle titles. It is involved in the planning of registration procedures in connection with registration activities carried on within the section. As a result of a reorganization in 1980, the renewal audit unit with its positions was removed from this section and consolidated with other registration renewal functions in the renewal processing unit in the receiving and issuing section supervised by Mr. Galbraith. As a result of this change, Mr. Slightam's section no longer was involved in license renewal activities and the number of employes supervised decreased from 108 in 1976 to 83 after the 1980 reorganization. From a classification standpoint, the title processing activities of this position involve greater complexity and responsibility than the appellant's renewal processing unit, which does not issue corrected or new titles due to change of ownership or different use of vehicles, but this is balanced out by the added variety associated with the appellant's position on account of the three other units (license plate issuance, postal services, and application pre-audit) and this position is not at a higher level than the appellant's position.

This change is made because the proposed finding was based in substantial part on the only position description for this position in the record, which was offered by the respondent as respondent's exhibit #9. However, this position description is dated November 19, 1976, and obviously is outdated due to the removal of the renewal audit unit in 1980, and the placement of those functions in Mr. Galbraith's section (receiving and issuance). While the title processing activities under this position are more complicated than the renewal processing activities carried out in receiving and issuance, receiving and issuance has an additional three distinct units with different functions with an attendant offsetting greater variety.

Finding of Fact #14, page 11, is changed from:

The appellant's position is more appropriately classified as Administrative Assistant 4 - Supervisor (PR 1-13) rather than Administrative Assistant 5 - Supervisor (PR 1-15).

to read:

The appellant's position is more appropriately classified as Administrative Assistant 5 - Supervisor (PR 1-15) rather than Administrative Assistant 4 - Supervisor (PR 1-13).

The reasons for this change are set forth in the opinion, below.

The Commission adopts as its conclusions of Law in this matter the proposed conclusions of Law, with the following changes:

Conclusion of Law #3 is changed from:

The appellant has not satisfied his burden.

to read:

The appellant has satisfied his burden.

Conclusion #4 is changed from:

The respondent's decision denying reclassification of the appellant's position from AA-4 to AA-5 was not incorrect.

to read:

The respondent's denying reclassification of the appellant's position from AA-4 to AA-5 was incorrect.

The reasons for these changes are set forth in the opinion, below.

OPINION

The proposed opinion points out that this is a difficult decision and a "close case." Certain of the analysis set forth in the proposed decision was based on a misapprehension of the facts, as indicated above. The appellant's position already had been determined to be comparable to another AA-5 position within DOR (Sahagian), and at a higher level than the AA-4 position in DOR (Balदारotta).

Position classification is not a process that usually admits of exactitude. In this case, the appellant's position was augmented appreciably by the addition of the renewal processing and postal services units. The microfilm unit which was removed from the section was a small operation of limited scope and of less significance than either of the units added. Furthermore, as pointed out in the proposed opinion, the respondent failed to properly credit the appellant's role in data processing planning and interface.

The appellant's position compares favorably with certain other AA-5 positions, and unfavorably with others. The Commission has determined that the unfavorable comparison to the other section chief position within the bureau, made in the proposed decision, was erroneous.

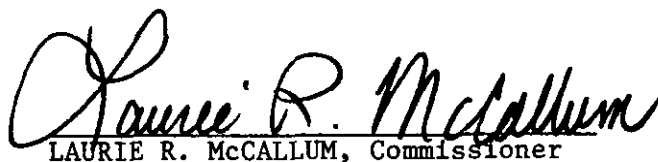
In light of all of these factors, and particularly in view of the favorable comparison of of appellant's position to the other AA-5 section chief within his bureau, the Commission concludes that there is a preponderance of the evidence in support of a finding that the appellant's position is more appropriately classified as AA-5 - Supervisor, rather than AA-4 - Supervisor.

ORDER

The respondent's decision denying the request to reclassify appellant's position from AA-4 - Supervisor to AA-5 - Supervisor is rejected and this matter is remanded for action in accordance with this decision.

Dated: March 31, 1983 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson


LAURIE R. McCALLUM, Commissioner

AJT:lmr

James W. Phillips, Commissioner, did not participate in this decision on this matter.

Parties:

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STATE OF WISCONSIN

PERSONNEL COMMISSION

* * * * *
 HAROLD L. GALBRAITH,
 Appellant,
 v.
 Administrator, DIVISION
 OF PERSONNEL,
 Respondent.
 Case No. 82-55-PC
 * * * * *

PROPOSED
 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 the reclassification of the appellant's position from Administrative Assistant 4 - Supervisor (AA-4) (PR1-13) to Administrative Assistant 5 - Supervisor (AA-5) (PR1-15).

FINDINGS OF FACT

1. The appellant was appointed to the position in question, Chief, Receiving and Issuance Section, Bureau of Central Office Services, Division of Motor Vehicles (DMV), Department of Transportation (DOT), on October 10, 1976. At that time, the position was classified as AA-4.

2. A request for reclassification of appellant's position to AA-5 was submitted in 1981 (Appellant's Exhibit 1).

3. The requested transaction was non-delegated--i.e., final authority rested in the State Division of Personnel. However, pursuant to §Pers. 3.03(2), Wis. Adm. Code, the DOT Bureau of Personnel Management initially reviewed the request and on July 2, 1981, issued its

recommendation that the reclassification not be approved (Appellant's Exhibit 2).

4. The appellant appealed the decision to the Division of Personnel which, on January 22, 1982, issued its decision denying the reclassification request (Appellant's Exhibit 7).

5. The appellant thereafter timely appealed to this Commission.

6. As of October 10, 1976, the appellant's position contained the following units:

- a. Fee removal and microfilm
- b. Application preaudit
- c. License plate issuance

7. As a result of organizational changes, the microfilm function was removed from the appellant's section and the postal services unit was added. The fee removal unit was expanded to constitute the renewal processing unit.

8. In summary, the appellant's position is responsible for license plate issuance, which includes the storage and mailing of license plates pursuant to specific directions received from data processing; application pre-audit, which includes the receipt of all mail for DMV, opening it and removing and accounting for cash, routing vehicle registration applications to the appropriate processing area, and shipping some checks to the title processing operation, which is outside of the appellant's section; registration renewal processing, which includes the handling of the most straightforward, "cleanest" registration renewal applications, a relatively simple audit function to ensure that the fee tendered coincides with the amount of fee set forth on the renewal form in accordance with the period

of operation, and the issuance of letters in case of noncompliance and the preparation of refund vouchers in case of overpayment, with the more complicated, difficult applications being sent to the renewal audit unit; and the postal services unit, which includes pickup and delivery of DOT mail, the application of postage to mail, the performance of bookkeeping functions with respect to postage used by the districts and certain other users of postal services, the performance of postal budget functions within his management area, and coordination with the United States Postal Service and the United Parcel Service.

9. Since his appointment to the position in question, the registration renewal processing operation has been marked by increasing mechanization and computerization. The appellant has been involved in coordination and planning with the data processing unit in the division of business management, and with certain other functional units, regarding the implementation of these developments. In addition, there has been an ongoing interface between the appellant's section and these other units with respect to the data processing function which requires the appellant to communicate his ideas and recommendations regarding data processing issues.

10. The appellant supervises a total of 71 employes, including four lower level supervisors--two Program Assistant 3-Supervisors, one Program Assistant 2-Supervisor and one Shipping and Mailing Supervisor 2.

11. Some other positions in the AA series, a summary of their duties and responsibilities, and a comparison of their classification level (on the basis of this record) to the appellant's position, are as follows:

a. Chief of General Services Section, Bureau of Management Services, Division of Business Management, Department of Transportation, Eugene J. Summers, incumbent, classified as AA-5. This position is responsible for providing a Materials Management, Document sales, Materials Distribution and Federal Property Program for the seven operating Divisions of the Department of Transportation, and also is responsible for the Inventory Control and distribution of all materials for the Office of Highway Safety, the Uniform and Career Clothing Program for the Division of State Patrol and the DMV and the Management of the Western Zone of the Madison Metro Distribution System (i.e., mail service and supply distribution for state agencies on the West side of Madison). With respect to the departmental materials management program, this position is responsible for the receipt, inspection, and quality control of a 4000 line item stores inventory, and the receipt and inspection of materials purchased especially for other department units, and for ensuring the correct and prompt processing of receiving documents to effect payments to vendors; the development of warehousing plans and procedures to provide for maximum utilization of space, protection of supplies in storage, efficient stock rotation, and conformance with OASHA and departmental safety regulations, the development and maintenance of an inventory control system; and the representation of the department at meetings with other state agencies on matters relating to stores, warehousing and materials distribution. This position supervises 22 employees including a Shipping and Mailing Supervisor 2 and a Stores Supervisor 3.

From a classification standpoint, this position's duties and responsibilities involve more variety and complexity and the more independent exercise of authority, and is at a higher level than the appellant's position.

b. Chief, Driver Record Section, Bureau of Driver Licensing, Division of Motor Vehicles, DOT, Harold W. Thummel, incumbent, classified as an AA-5. The duties and responsibilities of this position include the issuance, denial, renewal, and cancellation of driver licenses, and the maintenance of driver license records and other driver records, including citations, convictions, and cancellations; auditing of license applications to ensure compliance with statutory criteria; administration of a medical review program, including the review and evaluation of medical records to determine eligibility for licensing or licensing restrictions, the administration of special exams to determine incompetency, physical or mental disability or other condition which may interfere with driving, the administration of an Epileptic Review Board, and the establishment and coordination of a Medical Advisory Board; and coordination with other agencies, bodies, and individuals. This position supervises 79 employees of an indeterminate level. From a classification standpoint, this position has more complex subject matter involving a higher level of independent judgment, and is at a higher level than the appellant's position.

c. Supervisor, Revocation and Suspension Unit, Driver Responsibility Section, Bureau of Driver Licensing, DMV, DOT, Allan Johnson, incumbent, classified as an AA-4. This position's

duties and responsibilities involves the revocation and suspension of drivers licenses in the discharge of DOT's statutory responsibilities in this area. This position acts for the DOT Secretary in the revocation, suspension, and reinstatement of driving privileges, is the DOT authority on interpretation of the related statutes and is responsible for directing the exercise of independent judgment and interpreting rules and statutes in making decisions to revoke, suspend or reinstate driving privileges. This position involves substantial public contact with often hostile clients. It supervises 51 positions including two at PR1-11, three at 2-09, and one at 1-08. From a classification standpoint, this position has less variety but more complex duties and responsibilities, involving the exercise of more independent judgment, and is at an approximately comparable level to the appellant's position.

d. Chief, Vehicle Records and Correspondence Services Section, Bureau of Vehicle Registration and Licensing, DMV, DOT, Dean C. Davis, incumbent, classified as AA-5. This position is responsible for the administration of the vehicle records and security interest programs and the motor carrier insurance program, and for the provision of registration/title related correspondence services for DMV. This position also serves as the authority on laws, rules, policies and procedures relating to Chapter 342, Wis. Stats. (Vehicle Title and Anti-Theft Law), and serves as records coordinator for the bureau. This position also is responsible for acting as legislative liaison with respect to matters involving vehicle title and registration programs,

resolving unusual or complex vehicle records and titling problems; administering the bureau's motor carrier insurance program; maintaining vehicle record files and security interest files, including responsibility for motor vehicle manufacturers' recall programs as required by federal statute; and the coordination of the DMV's "Anti-Vehicle Theft Program," which includes developing and promoting programs to train personnel in detecting counterfeit, forged, or otherwise invalid ownership documents. This position supervises 71 permanent employes, including one Program Assistant Supervisor 2 and two AA-3's and 3 LTE's. From a classification standpoint, this position has more complex duties and responsibilities than the appellant's position, and is at a higher level.

e. Chief of Audit and Corrections Section, Bureau of Administrative Services, Division of Motor Vehicles, DOT, William Slightam, incumbent, classified as AA-5. The duties and responsibilities of this position are to pre-audit and code applications for all vehicle titles and changes of registration received by mail, pre-audit applications for renewal of license plates, provide for special or rush handling of vehicle titles and registrations, and correct all errors or applications for title and registration detected by "edits" within the computer update programs. This position is responsible for the on-line processing of all vehicle titles, registration renewals involving a title change, and initial vehicle registrations using a computer data base, and, as a general statement, handles the more complicated transactions as compared to the appellant's section.

This position has extensive responsibility for titling and registration process program development. This position supervises 83 employes including two at PR 1-11, one at PR 1-10, and 3 at PR 2-08. From a classification standpoint, this position's duties and responsibilities involve more complexity than the appellant's and are at a higher level.

f. Chief, Central Services Section, Compliance Bureau, Income, Sales, Inheritance and Excise Tax Division, Department of Revenue (DOR), Peter Sahagian, incumbent, classified as an AA-5. The duties and responsibilities of this position include the custody and maintenance of Central Files, which includes filing, pulling files, and refiling, and controlling access to the files; the DOR mail processing operation, which includes the receipt, opening, and distribution of incoming mail, and the receipt, sorting, packaging, application of postage, and sending out of all outgoing mail; and the management of a stores and office unit that service the section's needs. This position supervises 77 permanent employes and a number of temporary employes, averaging approximately 60 positions on a year-round basis, including one PR1-13, one PR1-09, two PR1-08, and five PR1-07. From a classification standpoint, this position has no greater complexity or variety of duties and responsibilities than does the appellant's position, and is not at a higher level.

g. Supervisor Central Files/Files Custodian, Central Services Section, Compliance Bureau, Income, Sales, Inheritance and Excise Tax Division, DOR, Nick Baldarotta, incumbent, classified as an AA-4. This position operates under the supervision of the Chief,

Central Services Section (Mr. Sahagian), described above, and is responsible for the operation of a large, complex, centralized files unit consisting of Income, Sales, Withholding, Motor Fuel, Closed Estates, Corporation, Beverage, and Miscellaneous tax files. In addition to supervising filing and pulling files, this position serves as official custodian of all DOR tax files, responds to court orders and subpoenas for tax returns, and controls access to files and release of information from files in accordance with current statutes and rules. This position supervises approximately 60 employes, plus an indeterminate number of the temporary employes under Mr. Sahagian referred to above, including two PR1-08 and three PR1-07. From a classification standpoint, this position has less variety and less complexity than the appellant's position and is at a lower level.

h. Supervisor, Waupun Central Warehouse, DHSS, James Fehling, incumbent, classified as an AA-4. This position is responsible for receiving, storing, and issuing a wide variety of commodities worth approximately \$3 million; directing the purchasing function for these commodities; maintaining equipment and buildings; developing and maintaining a transportation program for statewide distribution of these goods; managing the state salvage program and redistribution of surplus equipment and furniture; and supervising auctions of surplus items. This position supervises an indeterminate number of subordinate employes. From a classification standpoint, it is approximately comparable to the appellant's position.

1. Supervisor, Budget and Finance and Purchasing Unit, Adjutant General's Office, Department of Military Affairs (DMA), Peter W. Williams, incumbent, classified as Administrative Assistant 5 - Confidential. This position performs a wide variety of budget and management analyst functions and supervises the department's accounting and purchasing activities. It develops and administers the agency budget, and performs policy, program, and legislative analysis for the Wisconsin National Guard. This position supervises three positions, an Accountant 3, a Fiscal Clerk 3, and a Purchasing Assistant. From a classification standpoint, this position has more complex and varied duties, involving the exercise of a higher level of independent judgment than the appellant's position, and is at a higher level.

12. The Administrative Assistant 4 class specifications (Respondent's Exhibit 1) contains the following definition:

This is line supervisory and/or staff assistance work in a state agency or segment of a large state agency. Employees in this class have supervisory responsibilities over a large, moderately complex records processing and maintenance unit involving a variety of functions and having large clerical staffs with a number of subordinate levels of supervision, and/or supervise and perform staff services in records, accounting, personnel, budgeting or purchasing. Employees are responsible for interpretations of laws, rules and departmental policies in carrying out their assigned functions. Work is performed with a minimum of supervision which is received through staff conferences or general written or oral instructions. Employees are expected to carry out assigned functions with a considerable amount of initiative and independence with the results of their work reviewed through oral or written reports and personal conferences.

1. The Administrative Assistant 5 class specifications (Respondent's Exhibit 2) contains the following definition:

This is responsible line administrative and/or professional staff assistance work in a large state agency.

Employees in this class direct an important function of the department and/or provide staff services in management areas such as accounting, purchasing, personnel or budget preparation. Employees in this class may be responsible for supervising a staff of technical, semi-professional or professional employees in directing the assigned program. Employees have a great deal of latitude in areas of decision making and initiating action within a broad framework of laws and rules. Work is evaluated by administrative superiors through conferences, personal observations and reports.

14. The appellant's position is more appropriately classified as Administrative Assistant 4 - Supervisor (PR 1-13) rather than Administrative Assistant 5 - Supervisor (PR 1-15).

CONCLUSIONS OF LAW

1. This matter is properly before this Commission pursuant to §230.44(1)(a), Stats.
2. The appellant has the burden of proof, which is defined as: to a reasonable certainty, by the greater weight of the credible evidence.
3. The appellant has not satisfied his burden.
4. The respondent's decision denying reclassification of the appellant's position from AA-4 to AA-5 was not incorrect.

OPINION

This case presents a good deal of difficulty in decision. The Administrative Assistant series contains very general definitions, which are of limited use in determining proper classifications. Other positions in the series must be scrutinized for comparability, a task made complicated by the wide range of duties and responsibilities encompassed by the AA series, requiring in some cases that widely-varying programs and tasks be compared.

The appellant's position was strengthened by the changes that occurred since 1976. This, of course, does not automatically lead to the conclusion that it was strengthened to the AA-5 classification level. In comparison with many of the AA-4 and AA-5 positions in DOT which were used for comparison, the appellant's position is characterized, from a relative standpoint, by a larger volume of relatively routine tasks that do not require the exercise of as high a level of independent judgment and discretion. On the other hand, on this record, the appellant established that the comparison positions in DOR (Sahagian and Baldarotta) relied on by the respondent, are either not at a higher level, or are at a lower level, respectively. On this record, the tax files operation simply did not appear that complex, particularly since it was indicated that decisions on access to the files was controlled by statutory and administrative code provisions.

Another difficulty with the respondent's position on this appeal was the testimony presented that the great increase in data processing in the renewal processing unit was not given any weight, on the theory that the process remained the same except that the record involved changed from paper to electronic, and that this did not change the responsibilities of the appellant's position. This contention could not be squared with the testimony concerning the appellant's involvement in planning and coordination of computerization and his ongoing involvement in the interface between his sections and other units regarding the computer function.

Notwithstanding these difficulties in the respondent's position, it is the determination of this Commission that although it is a close case, the appellant did not establish that his position is improperly classified as

an AA-4. While the appellant has presented a good deal of evidence in support of his appeal, in the Commission's view there is not the preponderance of evidence that would be required for a finding that the appellant's position is more properly classified as AA-4.

ORDER

The respondent's decision denying reclassification of appellant's position from AA-4 to AA-5 is affirmed and this appeal is dismissed.

Dated: _____, 1983 STATE PERSONNEL COMMISSION

DONALD R. MURPHY, Chairperson

AJT:jmf

LAURIE R. McCALLUM, Commissioner

JAMES W. PHILLIPS, Commissioner

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