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 HARRY BLAIR,  
                   Appellant,  
 v.  
 Secretary, DEPARTMENT OF  
 EMPLOYMENT RELATIONS,  
                   Respondent.  
 Case No. 84-0098-PC  
 \* \* \* \* \*

DECISION  
 AND  
 ORDER

This matter is before the Commission as an appeal from a reallocation decision. The issue is:

Whether the respondent's decision reallocating the appellant's position from Regulation Compliance Investigator 3 (PR 5-11) to Regulation Compliance Investigator 4 (PR 5-12) was correct. If not, whether the appellant's position is more properly allocated to the RCI 5 (PR 5-13) level.

FINDINGS OF FACT

1. The appellant is employed by the Department of Transportation, Bureau of Vehicle Registration and Licensing, Reciprocity and Permit Section.
2. As of June of 1974, appellant's first-line supervisor was Jim Crawmer who in turn was supervised by Wilbur Jensen, Chief of the Reciprocity and Permit Section.
3. At all times relevant to this proceeding, Mr. Crawmer has acted as program coordinator for investigations carried out under the International Registration Plan which is a program to insure that Wisconsin as well as 48 other states, the Canadian provinces and Mexico receive their proper share of vehicle registration and permit fees.

4. The appellant is one of three investigators who "independently conducts specialized investigations and audits of motor carrier records and operations to insure compliance with reciprocity laws and regulations and to assure that Wisconsin and other jurisdictions are receiving the proper share of revenue." Each of the three investigators is assigned a specific geographic area of the state.

5. Approximately 70% of the appellant's time is spent conducting "standard" investigations, a responsibility described as follows:

Auditing motor carrier prorata and International Registration Plan mileages submitted to the Department for interstate and intrastate registrations valid in Wisconsin and other jurisdictions. The investigator is responsible for approximately 1800 motor carriers and is required to perform at least 100 audits per year in addition to other investigations.

6. Approximately 20% of the appellant's time is spent on "special" investigations:

Investigate motor carrier operations to determine compliance with Wisconsin Statutes, Chapter 194, 341, Administrative Orders MVD-2, 3, 4, 12, 28, and Federal Statute 49 USC Section 11506.

These investigations number approximately 10 per year and may require that the three investigators go outside of their assigned regions in order to work alongside the investigator in whose region the particular motor carrier is situated.

7. Prior to June of 1984, Mr. Crawmer's position was classified at the Regulation Compliance Investigator 5 level, while the appellant and the two other investigators who were assigned a geographic area of the state were classified at the RCI 3 level.

8. In June of 1984, respondent completed a classification survey that encompassed the RCI series. The new position standards for the RCI series that were adopted as a part of the survey read, in part, as follows:

REGULATION COMPLIANCE INVESTIGATOR 4

(PR 5-12)

This is objective and/or lead level regulation compliance work. Employees in this class perform predominantly investigative functions relating to violations of state and federal laws, rules, and regulations under general supervision.

Representative Position:

Under general supervision, position requires employe to independently plan and conduct complex investigations pertaining to the laws, rules, and regulations of the program(s) involved and/or lead the work of other investigators on a specific complex investigation or a wide variety of routine/-difficult investigations. These positions are found in such programs as Motor Vehicle Dealers, Consumer Protection, Medicaid Fraud, or Licensing.

REGULATION COMPLIANCE INVESTIGATOR 5

(PR 5-13)

This is specialized/advanced regulation compliance work. Employees in this class perform and coordinate investigative functions relating to civil violations of state and federal laws, rules and regulations under very general supervision.

Representative Position:

Under very general supervision, position requires employe to perform specialized investigative and program coordination work. Employees provide and coordinate a comprehensive investigative service typically on a statewide basis which relates to the enforcement of the laws, rules and regulations of a specialized program area, such as Motor Carrier Reciprocity, Railroad Safety, Worker's Compensation, or Consumer Protection where the predominance of the assignments involve industry-wide investigations as opposed to incidents.

9. As a result of the survey, the appellant's position was reallocated to the RCI 4 level.

10. As a result of the survey, positions in DOT responsible for carry-out investigations of motor vehicle dealers were also reallocated to the RCI 4 level. The positions of the motor vehicle dealer inspectors are comparable to the appellant's position in terms of knowledge and skills required, personal contacts, discretion and accountability, scope and impact.

11. As a result of the survey, the position held by Mr. Crawmer was reallocated to the RCI-Sup-3 level, reflecting the fact that Mr. Crawmer had supervisory authority over the appellant's position (and the two companion positions) rather than merely filling a lead worker role.

12. The appellant does not perform program coordination work as provided in the RCI 5 position standard.

13. The appellant's position is better classified at the RCI 4 level than at the RCI 5 level.

#### CONCLUSIONS OF LAW

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

2. The appellant has the burden of showing that the respondent's decision to reallocate his position to the Regulation Compliance Investigator 4 level rather than the Regulation Compliance Investigator 5 level was incorrect.

3. The appellant has failed to sustain his burden of proof.

4. The respondent's decision reallocating the appellant's position to the RCI 4 level was correct.

#### OPINION

The classification issue in this case is determined by two conclusions. The first is that the appellant's position is comparable to those of the motor vehicle dealer investigators, whose positions are specifically identified in the relevant position standard, at the RCI 4 level. The second is that the appellant does not have responsibility for performing program coordination work as required for classification at the RCI 5 level.

A. Motor Vehicle Dealer Investigators

The RCI 4 specification describes a "representative position" as follows:

Under general supervision, position requires employe to independently plan and conduct complex investigations pertaining to the laws, rules, and regulations of the program(s) involved... These positions are found in such programs as Motor Vehicle Dealers...

The appellant offered as an exhibit a document prepared by his section chief, Mr. Jensen, indicating that the reciprocity investigators (one of whom was the appellant) had very comparable duties to those of the motor vehicle dealer investigators:

I. Knowledge and skills required by the position.

Both must have extensive knowledge of investigative methods, techniques, procedures.

II. Personal contacts and their purpose.

Both have daily personal contacts with a varied range of individuals. Both conduct 100 inspections or audits per year.

III. Discretion and accountability.

Both set own priorities.

Both require decision making and independent judgment to perform duties of position.

Work completed each week is reviewed by field supervisor then forwarded to central office (dealers) compared to work forwarded to central office and spot checked by supervisor (reciprocity).

IV. Physical demands.

Both - not applicable.

Mr. Jensen identified only one distinction between the two positions; appellant is required to do a great deal more travelling throughout the state. Of the seven classification factors identified in the RCI position standards

(scope and impact of work, complexity of work, discretion and accountability, knowledge and skills required, personal contacts and their purpose, work environment, and physical effort) only the "work environment" factor is even arguably related to the amount of travel required. However, the work environment factor is defined in the standards as the "[1]level and frequency of risks and discomforts in employes' normal physical surroundings." This definition could be used to recognize the discomfort experienced by, for example, a foundry worker, but is not broad enough to include the inconvenience experienced by someone who must travel frequently. Therefore, Mr. Jensen's testimony supports classifying the appellant's position of reciprocity investigator at the same level used to classify the motor vehicle dealer investigators: RCI 4.

B. Program Coordination

The appellant failed to establish that he has responsibility to both "perform and coordinate" investigative functions as required at the RCI 5 level. The descriptions of the representative position at the RCI 5 level further specifies "program coordination work." Testimony showed that the appellant is one of three reciprocity investigators doing field work. The state is divided into three regions with one of the investigators assigned to each region. Responsibility for coordinating the reciprocity investigation program rests with the appellant's superiors (and specifically Mr. Crawmer) rather than with the appellant.

C. Complicating Circumstances

The appellant pointed out several discrepancies in the respondent's actions that, he argued, support classification at the RCI 5 level. He suggested that the "motor carrier reciprocity" investigator positions are

expressly identified at the 5 level. It is true that the RCI 5 specification refers to a position in that program area, but the specifications require that position to perform specialized investigative and program coordination work. The appellant simply does not meet this second requirement.

It complicates matters to note that while the specifications show they were drafted in April of 1984 and became effective in June of 1984, no position in the reciprocity program was reallocated to the RCI 5 level. Mr. Crawmer's position ended up at the RCI-Sup-3 level so as to reflect the fact that he was a supervisor rather than a lead worker. Testimony showed that the RCI 5 representative position in the reciprocity program area was intended to identify Mr. Crawmer's position as it was (incorrectly) understood by the persons who drafted the specifications at the time the specifications were prepared. However, the key question in the present case is whether the appellant's position meets the RCI 5 specifications as it now exists. The Commission concluded that the appellant's position does not meet the requirements for classification at the RCI 5 level.

Another complicating fact raised by the appellant is that the first reallocation notice that was sent to the motor vehicle dealer investigators placed them at the RCI 3 level instead of the 4 level. It is undisputed that soon after the original notice was sent out, a corrected notice was issued assigning the dealer investigators to the RCI 4 level. The dealer investigator positions are specifically identified at the RCI 4 level and the respondent admitted that the initial notices were in error.

Respondent also appears to have relied on an outdated position description of the appellant's position in making its reallocation decision. While there was a two year time span between the outdated PD and the appellant's

current PD, testimony showed that the only significant change during that period was the amount of revenue generated by the IRP program and appellant's investigations.

Respondent's errors are apt to undermine the confidence held by state employes in the classification survey process. However, these errors had no effect on the proper classification of the appellant's position and the correctness of the respondent's ultimate decision.

Finally, it should be noted that by reaching the conclusion it has reached, the Commission is only addressing the classification issue and has made no determinations as to the quality of the work performed by the appellant.

ORDER

Respondent's reallocation decision is affirmed and appellant's appeal is dismissed.

Dated: Nov 8, 1984

STATE PERSONNEL COMMISSION

  
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LAURIE R. McCALLUM, Commissioner

  
DENNIS P. MCGILLIGAN, Commissioner

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