

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 SMETANA et al. *
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 Appellants, *
 *
 v. *
 *
 Secretary, DEPARTMENT OF *
 EMPLOYMENT RELATIONS, *
 *
 Respondent. *
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 Case Nos. 84-0099, 0100, 0115 *
 0118, 0119, 0122, *
 0137, & 0142-PC *
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 * * * * *

DECISION
 AND
 ORDER

These appeals arise from the reallocation of appellants' positions. A prehearing conference was held on August 6, 1984 and the conference report includes the following statement:

As a consequence of a classification survey of law enforcement positions, the appellants' positions were reallocated from Motor Vehicle Inspector 2 to State Patrol Inspector 2 (PR5-10). The appellants wish to have the Commission create a new classification of State Patrol Inspector 3, assign it to pay range 5-12 and then allocate the appellants' positions to the new classification. The appellants did not identify any existing classification which they thought described their positions more accurately than Inspector 2.

The respondent moved to dismiss the appeals, arguing that the Commission lacks authority under §230.44(1)(b), Stats. (1983-84) to review a decision of the secretary of DER to establish, modify or abolish classifications, §230.09((2)(am), Stats. (1983-84), or to assign a class to a particular pay rate or range, §230.09(2)(b), Stats. (1983-84).

The appellants have until August 27, 1984 in which to submit any arguments regarding the jurisdictional question or to identify an appropriate classification within the existing classification system.

The appellants failed to identify any classifications that more accurately described their positions than the State Patrol Inspector 2 classification.

Certain decisions of the Secretary, Department of Employment Relations are appealable to the Commission. Pursuant to §230.44(1)(b), Stats., (1983-84), the Commission may hear an:

[a]ppeal of a personnel decision under §230.09(2)(a) or (d) or 230.13 made by the secretary or by an appointing authority under authority delegated by the secretary under §230.04(1m)

Under §230.09(2)(a), Stats., the Secretary has the authority to allocate, reclassify and reallocate positions within the classified service. Under §230.09(2)(d), Stats., the Secretary must decide, after reclassifying or reallocating a position, to either upgrade the incumbent or to open the position for competition. The reference to §230.13, Stats., is to the Secretary's responsibility for maintaining the confidentiality of personnel records.

In contrast to the three statutory provisions summarized above, the Secretary's authority to establish, modify or abolish classifications or to assign a classification to a particular pay rate or range is established elsewhere in §230.09(2), Stats:

(am) The secretary shall maintain and improve the classification plan to meet the needs of the service, using methods and techniques which may include personnel management surveys, individual position reviews, occupational group classification surveys, or other appropriate methods of position review. Such reviews may be initiated by the secretary after taking into consideration the recommendations of the appointing authority, or at his or her own discretion. The secretary shall establish, modify or abolish classifications as the needs of the service require.

(b) To accommodate and effectuate the continuing changes in the classification plan as a result of the classification survey program and otherwise, the

secretary shall, upon initial establishment of a classification, assign that class to the appropriate pay rate or range, and may, upon subsequent review, reassign classes to different pay rates or ranges. The secretary shall apply the principle of equal pay for work of equivalent skills and responsibilities when assigning a classification to a pay range. The secretary shall give notice to appointing authorities to permit them to make recommendations before final action is taken on any such assignment or reassignment of classes.

Because the decisions that the appellants wish to appeal were made pursuant to §§230.09(2)(am) and (b), Stats., rather than §§230.09(2)(a) or (d), Stats., those decisions are outside of the Commission's jurisdiction. Preder v. DER, 84-0112-PC, (8/21/84). The appeals must, therefore, be dismissed.

ORDER

These matters are dismissed for lack of subject matter jurisdiction.

Dated: August 31, 1984 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson

KMS:jmf


LAURIE R. McCALLUM, Commissioner

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