

STATE OF WISCONSIN

PERSONNEL COMMISSION

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BARRY B. CHASE, *

Appellant, *

v. *

Secretary, DEPARTMENT OF *

EMPLOYMENT RELATIONS, *

Respondent. *

Case No. 85-0033-PC *

* * * * *

DECISION
AND
ORDER

This matter is an appeal of a decision denying the request for reallocation of a position from Area Services Specialist 2 to Administrative Assistant 3, and determining that competition was required to fill the position. The following findings are based upon evidence presented at the hearing on August 29, 1985, before Commissioner Donald R. Murphy and after a briefing schedule, which was completed November 11, 1985.

FINDINGS OF FACT

1. At all time relevant to this appeal the appellant, Barry Chase was employed by the Department of Health and Social Services (DHSS) in a permanent state classified civil service position.

2. In May 1982, Chase was reclassified to Area Service Specialist 2 in the Division of Economic Assistance, Bureau of Program Compliance, Performance Review Section of DHSS.

3. During this same period DHSS consolidated the Division of Community Services (DCS) and the Division of Economic Assistance (DEA). DEA was reduced to a bureau within DCS called the Bureau of Economic Assistance. Staff members of the former DEA were reassigned to positions in the sections

and units of the newly structured bureau. The appellant was assigned to the newly formed bureau's Regional Support Unit and placed in the Administrative Assistant 3 position.

4. In July 1984, DHSS requested of the respondent that appellant's position be reallocated from Area Services Specialist 2 to Administrative Assistant 3. Subsequently, DHSS submitted a position description of appellant's position which described appellant's duties as follows:

- 30% A. Development and review of statewide monitoring projects and instruments for Division management staff to assess and analyze compliance of human service and income maintenance agencies' implementation of Divisional programs and policies against established criteria.

- 45% B. Preparation of reports including charts, graphs, and tables which present the statewide data gathered by regional staff; analysis of county status reports; recommendations for corrective action; and propose policy, manual, or statutory modifications.

- 15% C. Development of special evaluative studies to assess and analyze specific problem areas of Divisional programs or policies presenting alternative perspectives and solutions as an integral part to program planning and evaluation and policy analysis.

- 10% D. Review draft program and policy statements, manual and statutory writings for clarity of content and compatibility with current program/policy or proposed program/policy and as a linkage to an early alert system of potential program compliance problems.

5. Appellant's previous position description written in March 1982, was classified at the Area Services Specialist 2 level and described his goals and work activities as:

- 50% A. Assist in compliance monitoring activities of the Energy Assistance Program and/or other energy grant/loan programs.

- 50% B. Along with other Performance Review Section staff, conduct certain portions of Food Stamp Management Evaluation (ME) Reviews or special studies as assigned.

6. Respondent had authority to reallocate appellant's position if changes in the position had been logical since the respondent last received written notice of any changes in that position.

7. On January 11, 1985, the respondent denied the reallocation request, but advised DHSS that appellant's position should be filled at the Administrative Assistant 3 level by competition.

8. The appellant appealed respondent's denial to the Personnel Commission within 30 days of notification of the decision.

9. Between 1982 and 1984 more than 50% of appellant's duties had changed: all of goals A., B. and C. of appellant's 1984 position description are new. These changes occurred in 1982 when DCS and DEA were consolidated and DEA became a bureau.

10. Appellant's new position in the Regional Support Unit of the Bureau of Economic Assistance was not a logical change from his former position in DEA.

11. Respondent appropriately denied reallocation of appellant's position to Administrative Assistant 3.

CONCLUSIONS OF LAW

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

2. The appellant has the burden of proving that respondent's decision denying reallocation of appellant's position from Area Services Specialist 2 to Administrative Assistant 3 and requiring that the position be filled by competition was incorrect.

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

4. Respondent's decision denying reallocation of appellant's position and requiring that it be filled by competition is correct.

OPINION

The sole question in this matter is: was the position held by appellant in July 1984 eligible for reallocation or competition. This question of reallocation versus competition is governed by §ER-Pers 3.01(2) of the Wisconsin Administrative Code and Chapter 332, Section C of the Wisconsin Personnel Manual. Section ER-Pers 3.01(2) provides:

Reallocation means the assignment of a position to a different class by the administrator as provided in §.230.09(2), stats., based upon:

- (a) A change in concept of the class or series;
- (b) The creation of new classes;
- (c) The abolishment of existing classes;
- (d) A change in the pay range of the class;
- (e) The correction of an error in the previous assignment of a position;
- (f) A logical change in the duties and responsibilities of a position; or
- (g) A change in the level of accountability of a position such as that resulting from a reorganization when the change in level of accountability is the determinant factor for the change in classification.

The pertinent language in Section C is:

If more than 50% of the duties or responsibilities of a position have been changed since written notice was last given to the administrator and the employee of changes in assigned duties and responsibilities which may affect the classification of the position, the changes are not a logical change to a position but are the creation of a new position.

In March 1982, the appellant worked in the Performance Review Section of the Division of Economic Assistance under the supervision of the section head, Alan Sweet. Subsequently, the Divisions of Economic Assistance and Community Services were consolidated into one division called the Division of

Community Services. The appellant was assigned to the Regional Support Unit of the newly formed division and given new duties. It was at this point appellant's duties were changed from those described in his 1982 position description - Finding of Fact 5., to those described in his 1984 position description - Finding of Fact 4. In his new assignment, appellant's duties were much broader and he reported to John Thiesenheuser instead of his former supervisor Alan Sweet. Contrary to appellant's arguments that respondent was arbitrary, used improper procedures and based its decision on unsubstantial facts, the evidence supports the view that respondent processed the reallocation request in accordance with the administrative rules and regulations. Further, the evidence supports the position that appellant's new duties resulted from the consolidation and contraction of DEA and DCS and constituted more than 50% of his former duties as an Area Services Specialist 2. Consequently, based upon the record in this matter, the respondent's decision was correct.

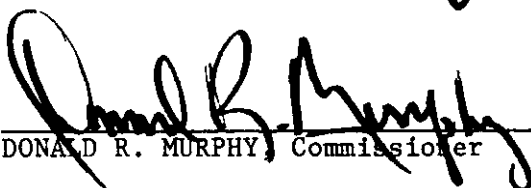
ORDER

Respondent's decision is affirmed and this appeal is dismissed.

Dated: March 13, 1986

STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


DONALD R. MURPHY, Commissioner


LAURIE R. MCCALLUM, Commissioner

DRM:jgf
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