STATE OF WISCONSIN PERSONNEL COMMISSION

HAROLD H. HEIKKINEN,

Appellant,

v.

Secretary, DEPARTMENT OF TRANSPORTATION and Secretary, DEPARTMENT OF EMPLOYMENT RELATIONS,

Respondent.

Case No. 85-0055-PC

DECISION
AND
ORDER

This matter is before the Commission as an appeal of a reclassification action. A hearing was held on the following issue:

> Whether the respondents' decision to deny the request to reclassify appellant's position from Engineering Technician 1 to Engineering Technician 2 was correct.

FINDINGS OF FACT

1. At all times relevant to this proceeding, the appellant has been employed within District 3, Division of Highways, Department of Transportation.

2. Appellant's responsibilities are divided into two main areas, materials and design. He has a separate supervisor for each area and for the 18 month period relevant to this proceeding, he spent approximately 55% of his time performing responsibilities in the materials area and the remaining 45% in design.

3. Appellant's responsibilities in materials, including the approximate percentage spent on each task as compared to appellant's total worktime, may be summarized as follows.

a. 35% - operation of a nuclear density machine. Appellant runs this machine to measure the moisture and density of soils (compacted fill used under roadways) and of bituminous (asphalt) road surfaces. In addition to operation of the machine itself, the appellant determines the location of the tests by applying specific location standards found in the Construction and Materials Manual. The appellant does not analyze the test results.

b. 8% - soils lab work. Appellant performs various types of laboratory tests on soils and road construction materials. These tests include "Standard Proctor", aggregate gradation and Atterburg limits. Appellant does not assist in training other lab technicians. His test results are reviewed by the district soils engineer who advises appellant if any tests must be repeated.

c. 3% - road profilograph. The profilograph registers deviations in pavement surfaces.

d. 9% - miscellaneous. Much of this time is spent as a member of a crew obtaining measurements of rock and swamp depths as well as soil surveys, elevations and slope inclinometer readings.

4. Appellant's design responsibilities include 1) computing and checking level notes and preparing and inking original cross sections, 2) final inking of plan and profile sheets and 3) inking revisions and corrections to final highway construction plans. Appellant's design supervisor does not assign appellant responsibility for preparing finished plan and profile sheets from basic engineer sketches.

5. The Engineering Technician Series Position Standard provides, in part, as follows:

III. TYPICAL ALLOCATION PATTERNS

The following allocation of duties and/or positions to specific classification levels provides both examples and patterns for present as well as future duties. Hundreds of different technical engineering tasks exist within the State Highway Commission and other agencies. This position standard does not, nor is it the intent to, list them all. It also does not attempt to cover every eventuality or combination of duties as they currently exist or as they possibly could exist in the future. It is intended, rather, to be a framework within which classifications can be applied equitably to the present program and also adjusted to equitably meet future personnel relationships and patterns

that develop as a result of changing programs and emphasis. The listing of duties found at Appendix A is a representative sampling of duties and responsibilities found at the various levels. A regrouping of duties, a reorganization of a unit, or new programs or changes in engineering or administrative practices or policies may require, from time to time, addition of new duties, deletion of some, and re-evaluation and reallocation of others. In meeting program demands it is recognized that an incumbent may in one case spend all of his time performing one task, while in another case he may perform a number of different tasks. In view of this, the levels contained in this standard do not depict "jobs," but rather duties. For a period of time specific higher level duties may be performed as part of a lower level classification or lower level duties as part of a higher level classification. This will not affect the classification of the position until 50% or more of the time is spent on duties at either a higher or lower level on a continuing basis.

* * *

ENGINEERING TECHNICIAN 1 (SR 1-8)

This is the first level in this series where the skills, knowledge and abilities required of the incumbent are considered to be specialized and technical in nature. A number of these duties are in materials plant inspection, construction inspection or specializing in such areas as instrumentation, planning analysis, etc. The required skills necessitate the incumbent having special knowledge and abilities in his area of assignment. He must be able to independently calibrate routine material processing plants, read and interpret basic plans and specifications, operate surveying and testing instruments, or make use of algebric equations in a variety of different computations. May perform related work as required.

Examples of Work Performed
See Appendix A

* * *

ENGINEERING TECHNICIAN 2 (SR 1-9)

Under general supervision, performs technical work in such areas as detailing and elementary (partial) design, analyzing traffic and/or land use patterns and problems, stress and load determinations, or testing of materials under various controlled conditions; or supervisory work such as directing a crew performing construction layout, traffic marking or signing or obtaining traffic mileage, type, and location; or related work as required. Incumbent must have a working knowledge of trigonometry to compute and apply standards to irregular areas; or a rather complete knowledge of detailing criteria, including ability to make difficult geometric computations; or sufficient knowledge of regulations, directives, and program policies and operation to

effectively direct and supervise other technicians or aids in completing assigned objectives.

Examples of Work Performed
See Appendix A

APPENDIX A
ENGINEERING DUTY ALLOCATIONS

Engineering
Technician 1

Construction	Design	Materials
Inst. man		Insp. - Concrete Batch Plant
Pile Driving Insp.		Insp. - Compaction Control
Misc. Paving Insp.		Dist. Aggregate Supvr.
Chain Link Fence Insp.	Instrument Man	Insp. - Reinforcing Bars
Storm Sewer Insp.	Asst. Fed. Aids Programmer	Boring Log Draftsman
Stabilized Base Course Insp.		Driller, Senior
Signing Insp.		Research Technician
Marsh or Grading Insp.		Dist. Matl. Records Chief
Special Compaction Insp.		Lab Technician
Record Keeper		

Engineering
Technician 2

Construction	Design	Materials
		Bituminous Plant Insp.
		Materials Tech. (district)
Bituminous Paving Insp.	Geometrics Computer	Pavement Conc. Drill Chief
Proj. Supvr. (small)	Data Processing Editor	Nuclear Equip. Tech.
Labor Compliance Tech.	Plans Detailer	Research Crew Chief
Const. Survey crew chief (routine)	Mosaic Compiler	Distr. Sounding Crew Chief
		Subsurface Dr. Crew Chief
Contract Technician	Standards Detailer	Lab. Technician
Lighting Inspector	Asst. Loc. Survey Crew Chief	Asst. Subsurf. Dr. Supvr.
		Soils Technician
		Insp.,-Metal/Concrete Culvert, or Timber Processing Plant

* * *

APPENDIX B
Description of Work Performed (representative sampling from Appendix A)

Engineering Technician 1

Construction

Instrumentman Operates level and transit on construction staking. Reviews plans prior to daily activity to fix tie points. Must thoroughly understand function of roadman and chainman on a construction staking crew. Turns angles, runs horizontal curves, sets bench marks, shoots cross sections, and takes notes as required.

Inspector: Pile Driving, Sewer, Stabilized Base Course, Signing, Marsh, Special Compaction, Etc. - Performance of these duties normally requires that the employee assisted in inspecting in this particular area as an Engineering Aid. Through experience, must be able to read and understand plans, and enforce plan requirements on the job. Responsible for inspecting material placement and job performance in his specific area. Reports to either higher-level technician, or Project Engineer.

Record Keeper - Under direction, responsible for the increasing construction reports and other documentation required. Must have construction experience in order to spot errors and locate required information.

Design

Instrumentman - On location; survey, performs essentially the same duties indicated in Construction above.

Asst. Federal Aids Programmer - Assists in preparation of detailed programs, supporting data, and other information concerning proposed improvements. Independently responsible for specific portions of program operations. Widest possible roadbuilding background desirable, so that all areas are understood and critiqued prior to final review by supervisor.

Materials

Plant Inspector, Concrete Batch - Controls plant operations and mixture produced by first testing materials (such as gradation test on aggregates) and determining mix. Also keeps records of cement shipments received, barrels of cement used, and amount of cubic yards of concrete produced.

Compaction Control Inspector - Conducts sand-cone and/or nuclear density tests to determine specific compaction density. Maintains records and prepares reports. Usually responsible for such tests on an entire project.

Laboratory Technician - Performs all but the most complex testing procedures in one subunit of the central laboratory, some under direct supervision, but the majority performed independently. Assists with writing test reports; maintains supplies and repairs equipment.

Research Technician - With considerable independence, sets up and performs a variety of testing procedures in the research unit. Assists in preparing reports.

Senior Driller - Operates drill on drilling rig. Background experience enables him to obtain maximum utilization of equipment based upon type of terrain. Maintains inventory and condition of tools and equipment.

* * *

Engineering Technician 2

* * *

Construction

Construction Survey Crew Chief (routine) - Supervises crew which is responsible for staking out guidelines and boundaries for contractor to follow in completing road or structure. After reviewing plans and obtaining a known point, stakes out alignment, grade, slope, structures, etc. Also records field notes, makes computations, and takes measurements to support partial and final pay figures. Works on routine projects in both rural and urban areas.

Contract Technician - Initiates, processes, and maintains office recores, maps, plans, project costs, progress reports, and data processing reports related to construction contracts. Work requires considerable familiarity with construction practice and policies.

Labor Compliance Technician - Interviews contractor personnel, prepares required reports and recommendations related to enforcement of contract wage scales and equal employment opportunity requirements.

Project Supervisor (Small) - This is the first of four levels of Project Supervisors. Although the project is very basic, such as a rest area or roadway beautification, the employee is singularly responsible for this project from start to completion. Normally he will not supervise additional departmental employees. In addition to inspecting work progress, he must furnish weekly construction activity reports, partial pay estimates, and final data to support acceptability of materials and quantities.

Inspector, Bituminous Paving - Checks condition of base, and also the paving equipment. Determines need for leveling course;

coordinates with plant inspector concerning design of mix; checks thickness of lifts, width of passes, surface texture, mix temperature, rate of placement, straight edging and cross-slope of surface. Documents quantities, and inspects traffic signing and flagman operations.

Design

Assistant Location Survey Crew Chief - This is the instrumentation on an original location survey crew. In addition to performing the duties of the Instrumentman indicated under Engineering Technician 1, he also is involved in recording topography and completing much instrumentation work with the rest of the crew without he supervision of the crew chief. Provides bench marks which will later be used by construction survey crew as their "known points."

Detail Technician (plans or standards) - From basic engineer sketch produce a finished plan or standard. Type of plans/standards are not considered complex. From this plan or other preliminary plans compute the geometrics for the final plan, or reviews plants for compliance with specified standards.

* * *

Materials

Laboratory Technician - Performs independently all the testing procedures, including the most complex or intricate, in a subunit of the central laboratory. Assists in training other technicians and aids, is the subunit asst.

Plant Inspector - (metal or concrete culvert, or timber treatment) - Each of these requires specifically different tests and inspections. Employee must be thoroughly familiar with testing procedures, must observe and/or perform test, accept or reject materials, and write inspection reported.

Research Crew Chief - Devises and sets up research procedures; supervises work; tabulates and computes data; analyzes results and writes report accordingly.

Subsurface Drilling Crew Chief - Responsible for drilling rig, supervises work of drilling crew. Responsible for tools and equipment and their condition.

District Sounding Crew Chief - In charge of crew making soundings to chart marshes, bedrock, etc.

Plant Inspector Bitum, Batch - Maintains control of finished product through changing mix design based upon testing results. Records material received, batches and weights of mixtures produced, and shipments released. Takes samples for central lab.

6. The Construction and Materials Manual provides that the location for using the nuclear density machine are to be established by the engineer. Although the appellant actually establishes those locations, the procedure for doing so is not complex, and typically involves addition, multiplication and use of a random number table.

7. Appellant's nuclear density machine work is essentially the same as that of a "Compaction Control Inspector" which is identified at the Engineering Technician 1 (ET 1) level.

8. Appellant's responsibilities to perform tests in the district soil laboratory are comparable to those responsibilities represented on a position description for Ellsworth Caproon (Respondent's Exhibit 14), an ET-1, who spends up to 90% of his time as follows:

> Performs materials testing procedures for the most part independently and prepares written test reports. Maintains supplies and repairs equipment.

Appellant's soils lab responsibilities are more similar to the ET 1 "Laboratory Technician" representative position than to the ET 2 "Laboratory Technician" representative position.

9. Appellant's miscellaneous materials responsibilities are better classified at the ET 1 rather than ET 2 level. Appellant is part of a district sounding crew but is not the chief of that crew as required in the ET 2 representative position for "District Sounding Crew Chief."

10. The appellant's design responsibilities are somewhat less complex than those design responsibilities typically assigned to persons at the ET 2 level.

a. Michael Delvoye (Respondent's Exhibit 15) spends 50% of his time in design work, including plotting and inking original plan and profile sheets, producing contour maps, producing final highway and other plans from basic engineering sketches and plot drafting. Mr. Delvoye's position is classified at the ET 2 level. The remaining 50% of Mr. Delvoye's time is spent in the

construction area, with some at the ET 1 level and some at the ET 2 level.

b. Larry Longlais' 1976 position description (part of Respondent's Exhibit 18) shows he spent 80% of his time as a detail technician with responsibilities described as follows:

> My duties are to produce plan, profile and cross section sheets from information furnished by the design engineers. I also replot roadway alignments from ICES COGO information when revisions are required by various project engineers.
>
> I computed earthwork quantities on cross sections and performed other basic quantity computations for final plans. I produced public hearing displays from regular plan, profile sheets and topographic maps.
>
> Assisted drafting supervisor and during his absence directed, controlled and distributed work to other employes in the District drafting section.

11. On the basis of a whole job comparison, appellant's responsibilities are comparable to the following positions:

a. Paul Butler, an ET 1, whose 1981 position description (Respondent's Exhibit 13) shows he spends 50% of his time performing ET 1 plant inspections, 8% performing soils laboratory tests (like those performed by appellant), 2% maintaining testing equipment and conducting inventories and 40% performing design work that is essentially identical to that assigned to the appellant.

b. Randolph Loberger, who was reclassified from ET 1 to ET 2 in 1980 based on the following time allocation: 30% soil surveys including 5-10% as a leadworker for a crew of LTE's, 25% nuclear density machine operator, 25% soil laboratory tests (similar to those tests performed by appellant), 15% performing subsurface investigations and 5% maintaining equipment and testing supplies. The primary factor in Loberger's reclassification was his role as a lead worker even though lead work of only 5-10% is not a compensable factor according to DER. Another factor in the reclassification decision was Loberger's accountability for the accuracy of data collected when he was acting as leadworker.

c. Thomas Marquardt, who was reclassified from ET 1 to ET 2 in 1974 based on duties substantially similar to those performed by Mr. Loberger.

12. The appellant's position is better classified at the ET 1 level than at the ET 2 level.

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(10(b), Stats.

2. The appellant has the burden of showing by a preponderance of the evidence that respondent's decision to deny appellant reclassification request was incorrect.

3. Appellant has failed to meet his burden of proof.

4. Respondent's decision not to reclassify the appellant's position from Engineering Technician 1 to Engineering Technician 2 was correct.

OPINION

The appellant in this case showed that the Loberger and Marquardt positions were reclassified to the ET 2 level while performing responsibilities in the materials area that are very similar to those assigned to the appellant. Both Loberger and Marquardt also had leadwork responsibilities representing 5 to 10% of their time, but a classification specialist from DER testified that such a low percentage made this additional duty uncompensable.[FN] Respondent DOT also contends that Loberger and Marquardt were reclassed because they were accountable for the data produced by the Sounding Crews they lead. However, if 5 to 10% leadwork is not compensable, the same conclusion should be reached as to accountability.

In the absence of specifications or any other comparables, the Loberger and Marquardt positions would be a sufficient basis for reclassifying appellant's position to the ET 2 level. Here, there is other information which, when viewed cumulatively, indicates that appellant is better classified at the ET 1 level.

FN This testimony was not disputed. However, this decision should not be interpreted as indicating that the Commission has generally adopted the conclusion that 5 to 10% leadwork responsibility is uncompensable.

The key responsibility here is the nuclear density machine operation because it represents a relatively high percentage of appellant's time. The position standards describe a representative position of "Compaction Control Inspector" that properly includes the appellant's duties in this area:

> Conducts ... nuclear density tests to determine specific compaction density. Maintains records and prepares reports. Usually responsible for such tests on an entire project.

As noted above, appellant does determine the location of the tests he performs. Testimony established that this procedure is not complex, a conclusion that is verified by a review of Appellant's Exhibit 6 which is a work sample of the computation.

The appellant spends just 3% of this time operating a profilograph, a duty that is not referred to in the position standards. Appellant's profilograph responsibilities are limited to operation of the machine, superimposing a previously established line (representing an acceptable level of deviation) on the graph produced by the machine, and handing these materials to an engineer. These duties are comparable to those performed by a "Senior Driller" and "Compaction Control Inspector" listed as representative positions at the ET 1 level.

Appellant's other responsibilities in the materials area are also adequately described at the ET 1 level. Therefore, the 55% of appellant's time relating to materials is properly classified at the ET 1 level. As noted in the ET position standard at least 50% of the duties must be at the higher level before reclassification is appropriate.

Proper classification of appellant's design responsibilities is somewhat more difficult, although the record does establish that the appellant is not assigned the most complex duties that are typically performed by an ET 2 design technician.

Because the majority of the appellant's duties are at the ET 1 level, his position is best classified at that level.

ORDER

The respondent's decision denying the reclassification of the appellant's position is affirmed and this matter is dismissed.

Dated: March 13, 1986 STATE PERSONNEL COMMISSION

DENNIS P. McGILLIGAN, Chairperson

DONALD R. MURPHY, Commissioner

LAURIE R. McCALLUM, Commissioner

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