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ZERBEL et al,
 (Shirley Zerbel, Renee Piraino*
 Irene Skalitzky, Alice McGaw, *
 Jonie Moe, Carol Below *
 and Barbara Hillebrand) *
 Appellants, *
 v. *
 Secretary, DEPARTMENT OF *
 TRANSPORTATION and Secretary, *
 DEPARTMENT OF EMPLOYMENT *
 RELATIONS, *
 Respondents. *
 Case No. 87-0032-PC *
 * * * * *

DECISION
 AND
 ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b), of the denial of a request for reclassification of appellants' positions from Motor Vehicle Representative 4 (MVR 4) to MVR 5. Respondent Department of Transportation (DOT) effected this transaction on a delegated basis from respondent Department of Employment Relations (DER) pursuant to §230.05(2)(a), Stats.

FINDINGS OF FACT

1. Appellants at all relevant times have been employed by DOT in the classified civil service in the Division of Motor Vehicles (DMV), Bureau of Central Vehicle Services, Vehicle Registration and Title Unit, in Sub-Unit 2, which handles telephone authorization and heavy vehicle title processing.

2. The duties and responsibilities of these positions are accurately set forth in Respondents' Exhibit 7, a representative position description

(for Ms. Zerbel) which was submitted with the instant reclassification request. This PD contains the following "position summary":

This is the most advanced processing position responsible for researching and issuing Certificates of Title and proper and legal registration items for any of the most complex vehicle types. The majority of these applications are for heavy vehicles (other than autos). These require the application of many complex fee charts and determining which of the wide variety of license plates are legal and proper.

The employee provides Telephone Authorization for vehicles registered quarterly or consecutive monthly allowing immediate legal operation. These calls are taped on a voice activated dictaphone. Information provided to the customer must be accurate and compete as taped conversation may be used in a court of law.

The employee provides information and assistance by phone or written contact to the public, Motor carrier industry representatives, other agencies, and law enforcement personnel regarding requirements to properly title and register vehicles.

This position directly creates, updates, and modifies records on the department registration computer data base.

3. Appellants are not lead workers. They work under a lead worker, and work under limited supervision provided by their supervisor, Cecelia Weber, a Motor Vehicle Supervisor 6 (MVS 6) who heads their subunit. Due to appellants' advanced levels of experience, expertise and capabilities, they receive relatively little actual direction or input from their lead worker or supervisor.

4. Appellants' positions were reallocated to the MVR 4 level effective March 6, 1983, as a result of a survey.

5. Subsequent to this reallocation, there were a number of changes in appellants' positions, primarily as follows:

a) The addition of "consecutive monthly registration" for certain vehicles added additional components to appellants' work.

b) The addition of telephone authorization added a significant dimension to appellants' jobs as it required them to go through the

entire registration process over the phone, with the requirement of ascertaining certain significant information, and then making an immediate determination as to whether authorization is indicated and entering the authorization into the computer data base. It is often necessary during the calls to contact other units such as Reciprocity, Heavy Vehicle Use Tax, Transportation Commission, and Insurance. Calls are tape-recorded and subject to usage in court in the event of a dispute concerning registration.

c) The added function of collecting a county sales and use or wheel tax with respect to certain counties required learning new criteria, policies and procedures in order to incorporate collection of this new tax in the application processing system.

6. The definition statements and representative positions for MVR 5 and MVR 6 as set forth in the MVR position standard, Respondents' Exhibit 1, are as follows:

MOTOR VEHICLE REPRESENTATIVE 4

(PR2-08)

Definition Statement: This is full performance Motor Vehicle Representative work. This class has a point range of 210 to 255 points.

This is normally a lead work level, but also may be used as a full performance level. Positions allocated to this level in full performance capacity perform highly complex processing and public contact work in the area of driver and vehicle registration and licensing. Positions at this level perform the most difficult and complex license and registration transactions, compose correspondence, and prepare reports on organization activities.

Positions allocated to this level in a lead work capacity assign and review the work of lower level Motor Vehicle Representatives in program areas involving computerized application processing procedures, departmental records research and retrieval, general application of motor vehicle laws, procedures, and departmental operations in situations requiring minimal or occasional face-to-face or direct public contact, or may have frequent public contact in a

more specialized program function. Work is performed under general supervision.

Representative Position:

Lead Work - Guide, train, assist and review the work of lower level positions.

Interpret and apply motor vehicle statutes, policies and procedures for employes and the public.

Develop, revise, and implement operating procedures affecting program responsibilities.

Establish subunit priorities.

Review work of subordinates.

Train departmental employes on subunit program responsibilities.

MOTOR VEHICLE REPRESENTATIVE 5

(PR2-09)

Definition Statement: This is lead work level Motor Vehicle Representative work. This class has a point range of 260 to 310 points.

Positions allocated to this level in a lead work capacity perform highly complex clerical processing and public contact work in the area of driver and vehicle registration and licensing. Positions are responsible for assigning and reviewing the work of lower level personnel and for responding to the difficult and complex license and registration transactions, composing correspondence, and preparing reports on organizational activities. Positions typically lead in program areas involving computerized application processing procedures, research skill in evaluating departmental records, and application of motor vehicle laws. Positions at this level are distinguished from lower level lead work positions in this series by the scope of subunit activities, the variety and complexity of work processed by the subunit, the application of knowledge in a broader array of motor vehicle laws, procedures, and departmental operations, and a higher volume of public contact. Work is performed under general supervision.

Representative Position:

Lead Work - Guide, train, assist and review the work of lower level positions.

Interpret and apply motor vehicle statutes, policies and procedures for employes and the public.

Develop, revise, and implement operating procedures affecting program responsibilities.

Establish subunit priorities.

Review work of subordinates.

Train departmental employes on subunit program responsibilities.

7. When appellants' positions were analyzed by DOT personnel in response to their request for reclassification an initial Factor Evaluation System (FES) point total of 245 was assigned. This is within the MVR 4 range (210-255 points). On subsequent review within DOT personnel, it was determined that this total was mistakenly high, because appellants' positions had been incorrectly assigned level A-2 for accountability. Level A-2 is defined as "Position reports to an area supervisor unit supervisor, or equivalent." Since appellants actually report to a subunit supervisor, with an intervening lead worker, they fit into level A-1: "Position reports to a team leader, a subunit supervisor, or equivalent." The A-1 level carries 20 less points than the A-2 level. Thus, the "corrected" point total as calculated by respondent DOT would be 225 points.

8. Appellants disagreed with two of the factor evaluations determined by respondent -- discretion and impact. Respondent rated appellants' discretion at level one (D-1). Appellants contend it should be at level two (D-2). Respondent rated their impact at level one (I-1), while appellants contend they should be at level two (I-2). The difference between the first and second levels for these factors are 20 and 25 points respectively.

9. The relevant factor definitions for discretion are:

<u>Level D-1</u>	Objectives of work assignments are generally established for the employe on a short-term basis (i.e., daily or weekly). The objectives are clear and well-defined. Similarly, work priorities are predetermined but may be changed in the event of an unusual or emergency situation. Guidelines and instructions are specific and cover almost all circumstances that may arise during a normal work shift. Any significant departures from these guidelines must have the prior approval of the designated leadworker or supervisor. The work product is reviewed on a daily basis by visual observation and checking of titles, licenses,
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stickers, statistical reports or other work records and logs.

Level D-2

Objectives of work assignments are established on both a long-term and short-term basis. While they are usually well-defined, they may be stated in somewhat general terms depending upon the variety of DMV tasks assigned. Within the parameters of the objectives, the employe determines the specific methods and priorities of daily assignments. Guidelines are available for the majority of these assignments, but they may lack specificity and may not be wholly applicable to all facets of each assignment. The employe occasionally is required to exercise judgement in determining the applicability of the guidelines, and may modify established procedures and operational methods to accommodate changing DMV conditions. The supervisor or leadworker checks completed work assignments by reviewing applications and registrations, certifications, licenses, titles, stickers, statistical reports and other work records and logs.

10. The relevant factor definitions for impact are as follows:

Level I-1

The work product or service affects the accuracy, reliability, acceptability, integrity, efficiency and effectiveness of one specialized subprogram. Specifically, the results of the product or service facilitate the work of higher-level DOT, DMV and bureau staff by providing technical information or assistance regarding a specialized subprogram to be used as a basis for further decisions or actions.

Level I-2

The work product or service affects the accuracy, reliability, acceptability, integrity, efficiency and effectiveness of several subprograms or the planning, evaluation and leadwork of a DMV sub-unit providing subprogram services to the motoring public and/or their representatives, or the program coordination of a statewide subprogram service. The results of the product or service contribute to the overall effectiveness of the DMV program by providing technical information, assistance, compliance and problem-solving to facilitate the work of higher-level DMV staff and other DOT, State agency, Federal and local governmental representatives, business and industry personnel, court official and the general public or their representatives through the performance of complex record or data exchange, application, examination, licensure, road testing, titling,

compliance reviews, inspections, technical assistance seminars and other complex vehicle registration and drivers license examination activities having significant economic and personal impact upon a large and diverse segment of the motoring public or their representatives. In the broadest terms, the work activity directly fosters a safe driving environment for the general public and a lessening of property damage, injury and loss of life due to motor vehicle accidents.

11. The MVR 5 positions in the International Registration Plan (IRP) Unit are responsible for processing all types of vehicle registrations in that area. The result of their work assures carriers of legal operation in Wisconsin and a number of other jurisdictions. Mistakes may result in carriers suffering costly delays, fines or imprisonment in various jurisdictions. As a result of these aspects, these positions were placed at the MVR 5 level based on the perceived greater scope and impact of their work.

12. With respect to discretion, the representative PD for appellants' positions (Respondents' Exhibit 7) contains the following description of the positions' "DISCRETION AND ACCOUNTABILITY":

- A. The overall objectives and long range priorities of this position are established by and through the Unit Supervisor. This employee recommends modifications of objectives and priorities to the Leadworker and Unit Supervisor, based on experience in performing the work.
- B. The processing work methods are chiefly controlled by Wisconsin Statutes and internal policies and procedures. Employee is expected to follow these policies and procedures and processing guidelines in carrying out the work of the unit. Employee is expected to exercise judgement and discretion within these guidelines.
- C. Work products such as completed applications, are reviewed regularly by the Leadworker and Supervisor for compliance with agency procedures, motor vehicle laws, and administrative rules, and for accuracy and completeness. Review is also accomplished through observation of on-the-job performance.

D. This position is fully accountable for carrying out the responsibilities assigned. They share accuracy of the applications with document sources. Employee will share accountability for fees collected with the accounting section on a daily basis. Daily deposits by accounting must equal applications for fee removal on the same date.

Employee will be required to account for fees removed. p. 6

13. It must be concluded based on the foregoing excerpt from their PD and other evidence in the record, that respondents correctly rated appellants' positions at the D-1 level for discretion.

14. The representative PD for appellants' position (Respondents' Exhibit 7) contains the following description of "POSITION IMPACT":

The Vehicle Title and Registration Unit is responsible for the processing of the most complex title and registration applications through Direct Data entry on the computer data base.

This position is unique in that in addition to processing a large volume of applications received by mail it also handles Telephone Authorization requests. Telephone Authorization was established to allow motor carriers to operate without registration displayed as per Wisconsin Statute Section 341.19.

When an applicant places a call for Telephone Authorization the information given is directly entered on the computer data base. These records are displayed state-wide to law enforcement agencies. Records processed here must be accurate as they may be used in a court of law during a registration dispute. Telephone contact with other units such as Reciprocity, Heavy Vehicle Use Tax, Transportation Commission, and Insurance are often necessary during one taped telephone conversation. This Unit receives and processes approximately 1500 telephone authorizations per month.

The work performed in this unit contributes to the prompt and accurate issuance of Title and Registration of all vehicle types other than autos. This Unit processes approximately 220,000 Certificates of Title and registrations annually. Inaccurate processing could cause an applicant to suffer costly delays, fines, or even incarceration as a result of illegal registration.
p.2.

15. Based on the foregoing excerpt from appellants' PD, and other evidence of record, it must be concluded that respondents correctly evaluated appellants' positions as I-1 for impact.

16. The appellants' positions have a correct FES point score within the MVR 4 point range (210-255) and are more appropriately classified as MVR 4 than as MVR 5.

CONCLUSIONS OF LAW

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

2. Appellants have the burden of proof to establish by a preponderance of the evidence that their positions are more appropriately classified at the MVR 4 than at the MVR 5 level and, accordingly that respondents' decision to deny the request for reclassification of their position to MVR 5 was incorrect and must be rejected.

3. Appellants having failed to sustain their burden of proof, respondents' decision to deny the request for reclassification of their position to MVR 5 must be sustained and this appeal must be dismissed.

DISCUSSION

Obviously, the key point in this matter is the assessment of the factors of discretion and impact. The appellants' assessment gives their positions enough points under the FES to put them at the MVR 5 level, while the respondents' assessment puts them at the MVR 4 level.

With respect to discretion, there seems little question but that appellants' positions are properly rated at the D-1 level. Discretion primarily concerns objectives and priorities, and the D-1 level includes the following language:

Objectives of work assignments are generally established for the employe on a short-term basis (i.e., daily or weekly), the objectives are clear and well-defined. Similarly, work priorities are predetermined but may be changed in the event of an unusual or emergency situation.... (Respondent's Exhibit 1, p. 11)

This language constitutes a close match with the language from the representative PD, which includes the following:

A. The overall objectives and long-range priorities of this position are established by the Unit Supervisor. This employe recommends modifications of objectives and

priorities to the Leadworker and Unit Supervisor, based on experience in performing the work.

- B. The processing work methods are chiefly controlled by Wisconsin Statutes and internal policies and procedures. Employee is expected to follow these policies and procedures and processing guidelines in carrying out the work of the unit. Employee is expected to exercise judgment and discretion within these guidelines.

Basically, the appellants' work involves processing registration applications as they are received. Objectives and priorities are primarily short-term and well-defined. Appellants presented evidence that they have to exercise a good deal of judgment and make difficult decisions in performing their jobs. However, this runs more to the factor of complexity, and to some extent to knowledge, rather than to discretion. Complexity is defined as follows:

This factor measures the complexity of the work by evaluating the difficulty in deciding what needs to be done and the difficulty in performing the work (this includes the originality required and the degree of judgment needed to apply guidelines). The difficulty in deciding what needs to be done ranges from little or no choice to determining the nature and scope of problems which encompass undefined issues and elements and require extensive probing and analysis to decide what needs to be done. The difficulty in performing the work ranges from quickly mastered work where the actions taken are readily discernable [sic] to work which requires continuing efforts to establish concepts and theories, or to resolve unyielding problems. Respondents' Exhibit 1, p. 23.

For example, deciding to what kind of vehicle category a particular vehicle belongs is primarily a matter of the "complexity" element rather than the "discretion" element.

Renée Piraino's testimony included the following:

- Q. First of all, I would like you to refer to Exhibit 1, p. 11, showing the discretion level for the positions involved. Renée, are the work assignments, objectives of this group established on a long and short-term basis and can you explain that?
- A. Yes. On a short-term basis, we process applications daily for title and registration, including fast service

processing and telephone authorization. On a long-term basis, telephone authorization tapes are kept and maintained for use at a later date in case of legal disputes.... (from hearing tape)

This testimony does not support a finding that there are long-term objectives as the term is used in the D-2 definition. Rather, this has to do with the fact that appellants create a record that may be referred to at a later date.

Some aspects of appellants' work matches up better with the D-2 definition in that they occasionally modify established procedures and operational methods to deal with an unusual case, as set forth in the D-2 definition, and their work is not necessarily checked on a daily basis as set forth in the D-2 definition. However, overall their work is better described by the D-1 definition.

With respect to "impact," while appellants' work has an inter-relationship with other units, it does not fit within the I-2 definition:

The work product or service affects the accuracy, reliability, acceptability, integrity, efficiency and effectiveness of several sub-programs or the planning, evaluation and leadwork of a DMV sub-unit providing subprogram services to the motoring public and/or their representatives, or the program coordination of a statewide sub-program service.... (Respondents' Exhibit 1, p. 7)

Appellants' work product or service does not affect the "accuracy, reliability, acceptability, integrity, efficiency and effectiveness of several sub-programs...." (emphasis supplied) While appellants have to have contacts with other units, and other units make some use of their work product, it does not affect those units in the manner set forth in the I-2 definition quoted above. Obviously, if a mistake is made in registering a vehicle or in recording that registration, the effects of such a mistake could be realized through or involve other subprograms within DOT, but this

would be true of many registration, licensing or record entry operations at any level. The I-1 level specifically includes the issuance of a "motor vehicle registration permit, title or other credential," and these credentials obviously are relied on to some extent beyond the subprogram involved in the issuance of the credential. Appellants' positions also are not responsible for the "planning, evaluation and leadwork of a DMV sub-unit providing subprogram services...." In this regard, it is noteworthy that the leadworker for appellants' subunit is at the I-2 level, and apparently rightly so, given the specific language of the I-2 definition. It is difficult to perceive how appellants and their leadworker, who are all involved in the same subprogram, could all be at the I-2 level.

Appellants' jobs have changed since the survey. Respondents recognized this to some extent by upgrading their level under the personal contacts factor. However, as discussed above, the record does not support a finding that these changes have resulted in an increase in appellants' ratings for discretion and impact to the D-2 and I-2 levels as appellants contend.

Appellants also compared their jobs to the IRP MVR 5 positions. However, most of the evidence concerning these positions had to do with complexity as opposed to discretion and impact.

Finally, while class level under the MVR position standard rests to a large extent on FES points, it should be noted that appellants' positions are described accurately by the MVR 4 general definition statement:

This is normally a leadwork level, but also may be used a full performance level. Positions allocated to this level in full performance capacity perform highly complex processing and public contact work in the area of driver and vehicle registration and licensing. Positions at this level perform the most difficult

and complex license and registration transactions.... (emphasis supplied) (Respondents' Exhibit 1)

ORDER

Respondents' decision to deny this reclassification request is sustained and this appeal is dismissed.

Dated: February 11, 1988 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson


DONALD R. MURPHY, Commissioner


LAURIE R. MCCALLUM, Commissioner

AJT:jmf
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