

STATE OF WISCONSIN

PERSONNEL COMMISSION

\* \* \* \* \*

DANNETTE B. TURNER-STRICKLAND,\*

Appellant,\*

v.\*

Secretary, DEPARTMENT OF\*  
EMPLOYMENT RELATIONS,\*

Respondent.\*

Case No. 88-0042-PC\*  
\*  
\* \* \* \* \*

DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b), Stats., of the denial of a request for reclassification from PS 4 (Personnel Specialist 4) to PS 5.

FINDINGS OF FACT

1. Appellant commenced employment with DER in a PS 4 position in the classified civil service near the end of 1985 via a lateral transfer. Prior to this transaction, appellant's work experience with the state included employment at DNR as a summer intern in the water quality program, as an LTE (Limited Term Employee) Equal Opportunities Specialist in the affirmative action office, as a Community Services Specialist for approximately 3 years, and as an Environmental Specialist 6 for approximately one year. It was unusual for someone to enter a PS 4 position in DER with the limited personnel experience possessed by appellant.

2. The class specifications for PS 4 and 5 (Respondent's Exhibits (9 & 10) contain the following definitions:

(PS 4) Definition:

This is professional personnel work in the central office of a medium or larger-sized state agency or State Division of Personnel. Positions allocated to this class are assigned a variety of personnel functions in one or more of the following areas: classification, compensation, occupational surveys, recruitment, and exam validation. Depending on the size of the agency, positions may also be involved in training, employment relations, payroll and/or affirmative action activities; however, such activities would not be the primary function of the positions. Work at this level is performed under limited supervision and differs from work at lower level Personnel Specialist positions in the complexity of work assigned and the high degree of independent judgment required.

(PS 5) Definition:

This is advanced professional personnel work in either the central office a major state agency (4,000 or more employes) or the State Bureau of Personnel. Positions allocated to this class are assigned a variety of complex personnel functions in more than one of the following areas: classification, compensation, occupational analysis, recruitment, and exam validation. Positions which report directly to the personnel director of a large or a large complex state agency may also be allocated to this class when such positions are assigned the responsibility for coordinating several complex functional program areas. All positions may be involved in training, employment relations, payroll and/or affirmative action activities; however, such activities would not be the primary functions of the positions. Work at this level is performed under limited supervision and differs from work at the lower level Personnel Specialist positions in the complexity of assignments and the high degree of independence and judgement required at this level.

3. Movement from PS 4 to PS 5 is handled as part of a progression series, and reclassification is granted when the incumbent's work is at the higher level in terms of complexity of assignments and degree of independence and judgment exercised. Within DER, it was typical for an employe who entered the series at the PS 1 or 2 level to progress to the next successive level after about one or one and one-half years at each level.

4. Appellant was employed in the Division of Classification and Compensation, with a working title of classification analyst.

5. Appellant's performance evaluation for the period July 1986 - June 1987 (Appellant's Exhibit 10) prepared by her immediate supervisor, Mary Jo Hewett (who supervised appellant from May 1986 - October 1987) gave appellant an overall appraisal of "meets expectations." It included the comment: "Overall, her analytical, written communication and interpersonal skills are satisfactory for a Personnel Specialist at the '4' level."

6. Ms. Hewett also prepared a performance summary for appellant for the period July - October 1987 (Appellant's Exhibit 10). This evaluation included the following comment: "...she is continuing to develop the analytical, written communication, and interpersonal skills necessary to achieve the objective level of Personnel Specialist 5."

7. On August 8, 1987, appellant submitted to Ms. Hewett a request for reclassification of her position to PS 5. On August 26, 1987, appellant and Ms. Hewett discussed this request. That discussion was summarized in a November 17, 1987, memo from Ms. Hewett to appellant (Respondent's Exhibit 2) as follows:

On August 26, 1987, I indicated that I was very happy with your work and the progress that you were making as an analyst. I expressed concern, however, that most of your work thus far had been straight class plan administration. Most importantly, you had not had the opportunity to perform a higher level assignment (i.e., significant mini-survey, etc.) independently. For example, the most difficult assignments that you had worked on up until August 26, 1987 had been performed jointly with another analyst, (i.e., review of clerical support positions at the Department of Regulation and Licensing, review of a DNR district real estate position with significant allocation pattern ramifications).

I also indicated that I had discussed your reclassification with Jerry Hoddinott and Joe Pellitteri and that all three of us were committed to providing staff with assignments which would facilitate their progression to the objective level of Personnel Specialist 5. Therefore, we discussed the following higher level assignments that would be given to you to facilitate your progression:

- (1) Mini-survey of the Agricultural Specialists and Agricultural Supervisors at the Department of Agriculture, Trade, and Consumer Protection; and
- (2) The analysis of problems resulting from the implementation of Phase II of Pay Equity.

Finally, we identified a date (November 20, 1987), by which time I would once again review your progress and work performed on higher level assignments to determine if you were at the Personnel Specialist 5 level. As a final note, I indicated that the actual technical completion of the higher level assignments would not be necessary in order to attain the Personnel Specialist 5 level. This was said with the understanding, however, that the substance of the work would be completed, (i.e., specification development in the case of a mini-survey).

In the same memo, Ms. Hewett went on to say:

In terms of the present time and the upcoming review of your position on or about November 20, 1987, I can offer the following comments:

- (1) The Agricultural Specialist/Supervisor mini-survey was assigned to you as planned. It will be necessary for your new supervisor, Eileen Kellor, to review your work and progress on this assignment.
- (2) The letters requesting agencies to identify problems resulting from Phase II of Pay Equity will be going out by the end of this week. Given our new organizational structure and agency services concept, the analysis of these problems by one analyst may not prove to be the most efficient method of review. If it is determined that all analysts will work on this review, I do not view this particular assignment as critical to your progression to the Personnel Specialist 5 level.
- (3) Finally, it should be noted that the decision of whether or not your position should be reclassified to the Personnel Specialist 5 level at the present time will be based on an assessment of your work in total.

8. Ms. Hewett was replaced as appellant's direct supervisor by Eileen Kellor on October 11, 1987. Ms. Kellor had worked with appellant on a peer basis before having become her supervisor.

9. By memo dated November 20, 1987, from appellant to Jon Reneau, respondent's Personnel Manager (Respondent's Exhibit 3), appellant

requested reclassification of her position to PS 5. Her statement of support for her request included the following:

...My request is based on the following:

- a. Completion of advanced level assignments -- study of all general classifications at the Department of Regulation and Licensing;
- b. Completion of the planning phase of a study to automate many of the current manual systems in the Bureau of Classification.
- c. Provision of technical assistance to agencies on clerical and related occupational areas;
- d. Representation of the Division of Classification and Compensation at DER orientation sessions.
- e. Provision of technical assistance to agencies on confidential designations and classification plan administration.
- f. Provision of assistance on a major survey compiling problems identified from the agencies;

The specifications for the Personnel Specialist 5 (PR01-15) state that work is performed under limited supervision and differs from work at the lower level Personnel Specialist position in the complexity of assignment and the high degree of independence and judgement required.

Since I have been in the Bureau, my assignments have significantly increased in complexity. Some examples are: reviewing classifications for delegation purposes, conducting a study of all the general classifications at the Department of Regulation and Licensing, reviewing reorganization proposals, conducting a study to automate the Bureau activities and reviewing highly sensitive reclassifications requiring an in-depth review of the agency and comparable agency programs.

I am now performing assignments with a greater degree of independence and the amount of supervision received is limited.

In summary, based on the change in my position, in terms of growth, independence, level of supervision and complexity of the assignments, reclassification to the higher level is warranted at this time.

10. The foregoing elements of justification did not provide an adequate basis for reclassification of appellant's position to PS 5, because of the following reasons:

a) The "study of all general classifications at the Department of Regulation and Licensing" (DRL) was in response to a DRL request to review the classifications of 46 positions which included 35 classified as Program Assistant, 9 as Administrative Assistant, one as Clerical Assistant and one as Management Information Technician. It was performed by appellant and another PS 4 acting jointly. It resulted in the conclusion that 26 of the positions were classified appropriately and identified appropriate classifications for the remainder of the positions. This study was at the PS 5 level in the classification area, at least in part. However, Ms. Hewett had to make extensive technical revisions in the report prepared by appellant and the other PS 4 who worked on the study. This level of review and revision was inconsistent with the independence with which work is expected to be performed at the PS 5 level.

b) The automation study in which appellant participated was outside the realm of normal PS 5 duties, and at the time of Mr. Reneau's reclassification review, there were no results from the study and little basis on which to evaluate the impact, if any, of this duty on the class level of her position.

c) With respect to the provision of technical assistance to agencies on clerical and related occupational areas, each PS, regardless of class level, had an assignment like this, so it was of no significance in terms of the class level of appellant's position.

d) The representation of the Division of Classification and Compensation at DER orientation session is a typical task for a PS at any level.

e) With respect to the provision of technical assistance to agencies on confidential designations and classification plan administration, there was no basis on which to associate this with PS 5 level activity. Appellant had been assigned the task of writing a research paper to address how this type of decision should be made, but there was no product to evaluate.

f) As to the provision of assistance on a major survey (client care and custody), compiling problems identified by the agencies, while this was an assignment in the field of occupational analysis, it was of limited scope, appellant had done little work on it, and what she had done had not been of satisfactory quality.

g) As a "highly sensitive reclassification" contained in the body of her memo to Reneau, appellant cited a reclassification analysis of a Real Estate Agent 4 at DNR she had completed. This work was sensitive and complex enough to qualify as PS 5 level classification work, and it was completed in a satisfactory manner, but it was only a small part of appellant's activities.

h) Although this was not specifically cited in appellant's reclassification request memo (Respondent's Exhibit 3) appellant had been assigned in late 1987 to the Agricultural Specialist mini-survey in DOATCP (Department of Agriculture, Trade and Consumer Protection). At the time of her reclassification request, the survey process had only progressed to the point of the preparation of a work plan and the

identification of which positions would be audited by whom. This was a very small part of the entire survey process.

11. Based on the totality of appellant's activities, the majority of her work was not at the PS 5 level.

12. Mr. Reneau consulted with appellant and both Ms. Hewett and Ms. Kellor after having received appellant's reclassification request. Neither supported reclassification of appellant's position because each was of the opinion that appellant's work was not at the PS 5 level. Mr. Reneau decided to deny the reclassification request and did so in a memo to appellant dated March 3, 1988 (Appellant's Exhibit 1).

#### 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 proof.

3. Appellant having failed to sustain her burden, it is concluded that respondent did not err in denying the request for reclassification of appellant's position from Personnel Specialist 4 (PS 4) to Personnel Specialist 5 (PS 5).

#### DISCUSSION

Personnel Specialist 4-5 constitutes a progression series. In order for a position to be reclassified from PS 4 to PS 5, it must be:

...assigned a variety of complex personnel functions in more than one of the following areas: classification, compensation, occupational analysis, recruitment, and exam validation.... PS 5 class specification, Respondent's Exhibit 10.

Furthermore, according to this class specification, PS 5 level work:

...differs from work at the lower level Personnel Specialist positions in the complexity of assignments and the high degree of independence and judgment required at this level. id.



Appellant was assigned and performed some work in the areas of classification and occupational analysis. The question is whether there was enough sufficiently complex work performed with the high degree of independence and judgment required to distinguish it from PS 4 level work and justify classification at the PS 5 level.

The DRL classification study which was performed jointly by appellant and another PS 4 was, at least in part, at the PS 5 level in terms of complexity. However, Ms. Hewett testified that she had to make extensive revisions in the final work product, that the revisions involved more than just matters of style but involved extensive technical revisions that were inconsistent with the high degree of independence and judgment associated with the PS 5 level.

This testimony by Ms. Hewett was not successfully countered by appellant. She contended that it was not unusual for Personnel Specialists at all levels to have their work edited. However, it is clear that the editing of the DRL report involved fundamental technical analytical matters that would be expected to receive little, if any, editing at the PS 5 level. Appellant's witness, Charles McDowell, who had not seen her work on the DRL project, testified generally that the kinds of revisions that would be consistent with PS 5 level work would be semantic or perhaps policy-oriented rather than corrections of technical analysis.

Appellant also pointed to the fact that she received generally favorable evaluations from Ms. Hewett. However, it is clear that these evaluations were in the context of PS 4 level work -- see, e.g., Appellant's Exhibit 10:

Overall, her analytical, written communication and interpersonal skills are satisfactory for a Personnel Specialist at the '4' level. (emphasis supplied)

The classification study of the Real Estate Agent 4 position at DNR did qualify as highly sensitive classification analysis consistent with the PS 5 level that was performed in a satisfactory manner. However, her work on this one project would not be sufficient, without more, for a conclusion that her overall work was at the PS 5 level.

Appellant attempted to show that she performed PS 5 level occupational analysis. However, stated generally, her survey assignments never really got off the ground.

Appellant had been assigned to the Agricultural Specialist mini-survey in late 1987, but at the time her reclassification was denied, only the preliminary stages of the survey process had been completed.

Appellant had some limited assignments on the client care and custody survey. She was assigned to assist in one component of one major step of the survey, determining the problems in the agency. Appellant was assigned to prepare a summary of the problems related to recruitment. However, this work was not of satisfactory quality. This finding was based on the testimony of respondent's witness Roberta Miller, a PS 5 whom appellant had been assigned to assist. Ms. Miller testified on cross-examination that at least one of the reasons why she had never taken her concerns about appellant to Charles McDowell, who had been in the chain of supervision over appellant, was because she felt that Mr. McDowell had shown favoritism to appellant as manifested by providing her with favorable assignments, and she felt that he would not have been receptive to any criticism of appellant.

In her posthearing brief, appellant's attorney attempts to undermine this testimony by Ms. Miller, who is white, by suggesting that she harbored an implicitly racist resentment against appellant:

...First, she admitted resentment of appellant as the beneficiary of alleged favoritism, an allegation which Ms. Miller felt was explained by some bond between appellant and Charles McDowell. Ms. Miller refused to explain what this perceived bond was but acknowledged that appellant and McDowell were both black and that there were no other black co-workers in the agency at that time. The implication of racism on Ms. Miller's part was left unresolved by her testimony but her lingering resentment of something about appellant's status was clearly stated and not with any obvious rational basis.

This argument is unconvincing for a number of reasons. First, Ms. Miller did not admit any resentment of appellant, although it is an arguable inference from her testimony. Second, Ms. Miller did not "refuse to explain what this perceived bond was." Third, Ms. Miller did not testify, and there is no other evidence in the record to this effect, that "there were no other black co-workers in the agency at that time." Fourth, if one were to draw the inference that Ms. Miller resented appellant in some manner, it is not correct that there would be no "obvious rational basis for such resentment" -- rather, such a basis is provided by Ms. Miller's testimony that appellant was the recipient of preferential treatment with regard to work assignments. Appellant adduced no evidence that would tend to rebut this.<sup>1</sup> In sum, appellant has not provided a basis for a conclusion that Ms. Miller's opinion of appellant's work on the client care and custody survey was tainted by racism.

Appellant's counsel also argues that Ms. Miller's testimony is somehow undermined because she declined to criticize appellant's work in 1987 but was willing to do so once Mr. McDowell and appellant had left the agency,

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<sup>1</sup> In the interest of fairness, the somewhat nebulous state of this record is noted. Ms. Miller's perception of preferential treatment was brought out on cross-examination which occurred after Mr. McDowell had testified, and he did not have the opportunity to respond to this point on this record.


and she then had the opportunity to ingratiate herself with current management with her testimony before the Commission. However, Ms. Miller was not appellant's supervisor, and had a reason not to approach then current management because of her belief that appellant was receiving preferential treatment. Also, she did express a negative opinion about appellant's work on the survey to Bureau Director Pellitteri when asked specifically, long before appellant requested and was denied reclassification and DER had an appeal to defend.

Appellant contended a number of her other work activities were at the PS 5 level -- participation in the automation study, the provision of technical assistance to the agencies on clerical and related occupational areas, representation of the division at DER orientation sessions, and the provision of technical assistance to the agencies on confidential designations and classification plan administration. Mr. Reneau testified that this work was either irrelevant to the PS 5 classification analysis or work that was routinely assigned at the PS 4 level. This testimony is not inconsistent with the class specifications and not contradicted in any significant way by appellant.

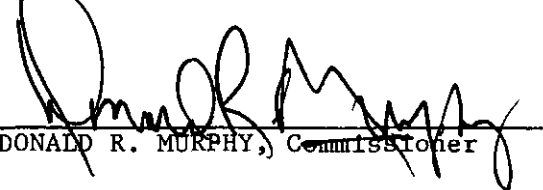
ORDER

Respondent's decision denying reclassification of appellant's position from Personnel Specialist 4 to Personnel Specialist 5 is affirmed and this appeal is dismissed.

Dated: March 24, 1989 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

AJT:jmf  
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DONALD R. MURPHY, Commissioner

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