
 *
 PAUL J. LOCHNER, *
 *
 Appellant, *
 *
 v. *
 *
 Secretary, DEPARTMENT OF *
 NATURAL RESOURCES, and *
 Secretary, DEPARTMENT OF *
 EMPLOYMENT RELATIONS, *
 *
 Respondents. *
 *
 Case No. 88-0094-PC *
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DECISION
 AND
 ORDER

This matter is before the Commission on appeal of respondent's decision, which denied appellant's request for reclassification of his position from Natural Resource Specialist 4 to Natural Resource Specialist 5. After considering testimony, exhibits and post-hearing briefs of the parties, the Commission makes the following findings of fact, conclusions of law, and decision and order. To the extent that any of the opinion constitutes a finding of fact or conclusion of law, it is so adopted.

FINDINGS OF FACT

1. The appellant is employed by the respondent, Department of Natural Resources, in a classified civil service position, as a Natural Resource Specialist 4, at its Whiting Ranger Station, Stevens Point, Wisconsin. He has been employed with respondent since 1976.

2. Prior to June 1988, appellant's position was presented for reclassification from Natural Resource Specialist 4 (NRS 4) to Natural Resource Specialist 5 (NRS 5).

3. Appellant's position description, dated January 13, 1988, submitted with the request for reclassification, described appellant's duties and responsibilities as:

- 1) 42% Administration/participation in the Forest Management Program. This includes administering the forestry assistance program on private lands and participating in the implementation of the forestry program on public lands.
- 2) 30% Implementation and participation in the forest tax law program in the Wisconsin Rapids area.
- 3) 8% Forest resource protection which includes both suppression action on forest fires and insect and disease control education programs.
- 4) 7% Development and implementation of forestry information services.
- 5) 5% Liaison with other governmental agencies.
- 6) 3% Cooperation with other department functions.
- 7) 3% Area program administration which includes assisting the area forester as necessary.
- 8) 2% Professional improvement.

4. Since the reallocation in April 1985, which classified appellant's position at the NRS 4 level, the following changes have occurred:

- 1) 8% Implementation of forest resource protection program.
- 2) 5% Ice Age Trail management. Liaison with UW-Stevens Point.
- 3) 1½% Responding to hazardous waste spills.
- 4) % Participation in Wood County Forest Tax Law Program.
unknown

5. Appellant's immediate supervisor is Daniel Heath. Heath is classified as a Natural Resources Supervisor 2, which is in pay range counterpart to NRS 5 positions.

6. Daniel J. Heath works at the Whiting Ranger Station. His NR Supv. 2 position, in summary, is described as:

Implement, administer, and supervise the total forestry program in Portage County. Conduct prevention, pre-suppression, and suppression activities throughout the county and also specifically provide professional forestry assistance to landowners in a definite, geographical portion of Portage County.

7. Daniel Heath's first-line supervisor is the Area Fire Control Supervisor, Arvid B. Haugen. The Area Forester is Syd B. Hovde.

8. The state position standard for Natural Resource Specialist positions identifies NRS 1-4 positions as four levels of professional resource management work ranging from the entry to the basic objective level. About the NRS 4 (PR 15-04) position it provides:

Definition:

The Natural Resource Specialist 4 level is the basic objective level for these positions. The individual types of tasks and duties performed at all levels are substantially the same. Differences in position allocation are based primarily upon the complexity of the tasks and the level of accountability or responsibility assigned to the position as measured by the amount and type of supervision and direction received and authority assigned. Work performed at the objective (full performance) level is under general supervision.

Representative Positions:

Assistant Area Resource Manager - These positions report to the Area Resource Manager for Fish, Wildlife, or Forestry and are responsible for the implementation of the fish, wildlife, forest management, fire control, or forestry programs in a sub-area (one or two counties). General activities for all areas of specialization include: writing environmental impact assessment narratives, reviewing environmental impact statements for content, responding to public inquiries, addressing public groups, and assisting in the writing of press releases. Examples of specific activities by area of specialization include: ...

Assistant Area Forester - advising woodland owners on timber stand improvement methods, completing management plans and making recommendations on forest crop and woodland tax applications, marking and tallying timber, and developing short and long-term timber management plans....

9. The state position standard for a Natural Resource Specialist 5 (PR 15-05) classification provides:

Definition:

This is very responsible resource management work. Positions allocated to this class typically function as: 1) an assistant area resource manager responsible for the implementation of a complete resource management program (i.e., fish, wildlife, forestry) in a geographic sub-area where the extent and complexity of the program easily distinguishes it from the objective level assistant area manager at the Natural Resource Specialist 4 level; 2) a district specialist responsible for providing staff assistance in a very specialized aspect of a major resource management program; 3) a county forest administrator; 4) a project leader responsible for conducting complex research studies in a particular specialty such as fish, forestry, wildlife, or water resources; or 5) a central office specialist providing central office coordination and/or guidance for a segment of a resource program being implemented on a statewide basis.

Representative Positions:

Positions Functioning Out of an Area Office: ...

Assistant Area Forester - reporting to the Area Forester, this position is responsible for the implementation of the forestry program in a sub-area of the State. This position is differentiated from lower level assistant area foresters by factors such as the extent of the forest resource, the heavy emphasis on private forestry assistance (or a comparable specialization), the extent and complexity of forest tax law entries and withdrawals, the extent of public forest land in the sub-area, and the high degree of public involvement and pressure in decisions made regarding the sub-area's forest resources. In order for assistant area forester positions to be allocated to this level, it must be demonstrated that the factors used to justify identification at this level contribute significantly to the position's complexity....

10. Appellant's position is not responsible for the implementation of the forestry programs in a sub-area of the state. Appellant reports to Mr. Heath, who supervises the forestry program in Portage County.

11. Appellant's current resource base responsibilities -- number of acres by ownership of forests, acres of private managed forestry lands, number of landowners in assigned counties, acres in need of reforestration, and acres in need of cultural practices -- are comparable to the 1988 statistics for the resource base of the positions of Shirley M. Bargender, Ronald H. Jones, and Harry C. Porter, who are classified at the NRS 5 level.

12. Shirley M. Bargender, Ronald H. Jones, James Baughman, and Harry C. Porter report to an Area Forester.

13. The resource base was one of the factors used in evaluating forestry positions during the 1985 survey.

14. Appellant's job responsibilities and reporting relationships are comparable to those of other NRS 4 positions.

CONCLUSIONS OF LAW

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

2. The appellant has the burden of proving respondent's decision denying reclassification of his position from NRS 4 to NRS 5 was incorrect.

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

OPINION

The Commission has consistently held that class specifications and position standards are binding. In Zhe et al. v. DHSS & DP 80-285-PC, 11/19/81; affirmed by Dane County Cir. Ct., Zhe et al. v. PC, 81-CV-6492, 11/2/82, the Commission held that it had no authority to update the class specifications but was bound by those currently in effect. Again in Kennedy et al. v. DP, 81-180, etc. - PC, 1/6/84, the Commission said that it lacked authority to reclassify positions or regrade an employe on the theory of compensating for inequities in class specifications but must apply the existing class specifications and position standards. And as recent as Jones v. DNR & DER, Case No. 85-0127-PC, 1/24/86, the Commission said: The language of the classification specifications governs the assignment of a position to a particular classification.

In the present case before the Commission, the appellant fails to meet the position standard requirements for the NRS 5 classification in two

important respects. The Natural Resource Specialist 5 classification, as applicable to appellant, requires persons in such positions to report to the Area Forester and be responsible for the implementation of the forestry program in a sub-area of the state. The appellant does not report to an Area Forester, but to Mr. Heath, whose classification is counterpart to an NRS 5; and he is not responsible for the total forestry program in the sub-area he services.


The appellant argues that his position compares favorably to the positions of Shirley Bargender, Ronald Jones, James Baughman, and Harry Porter, who are classified at the NRS 5 level. While the evidence shows appellant's responsibility for resource base components is comparable to those of Bargender, Jones, Baughman, and Porter, this is but one factor used by respondent in auditing forestry positions. Respondent's Personnel Specialist testified that appellant's position was most similar to other NRS 4 positions.

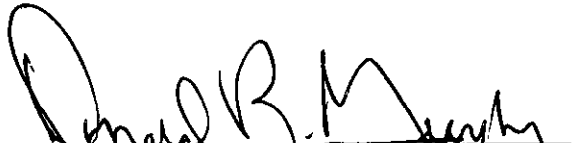
Based upon the evidence presented in the record (appellant's briefs contained many allegations of fact not in the record), the Commission can only conclude appellant's position is currently appropriately classified.

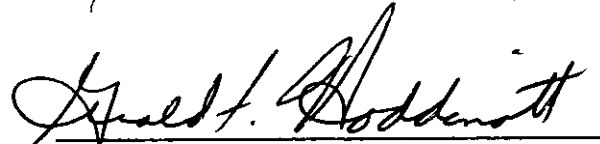
ORDER

The decision of respondent is affirmed and this matter is dismissed.

Dated: September 8, 1989 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

DRM:rcr
RCR01/2

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