

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 KIM NASH, *
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 Appellant, *
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 v. *
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 Secretary, DEPARTMENT OF *
 NATURAL RESOURCES, and *
 Administrator, DIVISION OF *
 MERIT RECRUITMENT & SELECTION,*
 *
 Respondents. *
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 Case No. 88-0117-PC *
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DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal pursuant to s. 230.44(1)(a), Stats., of an examination.

FINDINGS OF FACT

1. In April 1988, the position of Management Information Specialist (MIS) 6 - Team Leader - Geographic Information System became vacant. The position is located in the Bureau of Information Management in the Department of Natural Resources.

2. The position reports to Sharon Michel, who is the supervisor of Application Development Section in the Bureau of Information Management. Ms. Michel reports to Janet Price, who is the Bureau Director.

3. The position in question had been affected by a reorganization about 2 years ago. Prior to the reorganization, the position reported to Janet Price for about 4 years and was classified as a section chief. After the reorganization, the position was placed in Ms. Michel's section and reported directly to Ms. Michel.

4. The job announcement to fill the vacant MIS 6 - Team Leader - Geographic Information System position was issued by the Department of Natural Resources and dated July 15, 1988. The announcement contained the following information:

Department of Natural Resources (DNR); Bureau of Information Management: Madison. Lead the Geographic Information Systems (GIS) Team in: design and development of geographic information processing techniques and facilities, planning and implementation of geographically related data bases, and management of existing and future departmental uses of geographic information processing products. KNOWLEDGE REQUIRED: Geographic Information Systems; data base and data management facilities; GIS hardware/software; GIS methods and procedures; systems analysis and design; cost/benefit analysis; map compilation methods; documentation principles; project management techniques; work planning and scheduling; communications and consulting skills. Start between \$31,466 and \$38,601 per year plus excellent benefits depending upon qualifications; up to \$44,791 may be offered based on current salary. A 12-month probation is required. Call or write for special application and examination materials to Jackie Layman (608) 266-5898; DNR Personnel; P.O. Box 7921; Madison, WI 53707. Do not submit an Application for State Employment form. Deadline date for receipt of completed application and examination materials is August 15.

5. Mr. Nash called and obtained the necessary special application and examination materials. These materials consisted of a cover letter and an expanded application form with two questions to answer. In addition to answering these questions, applicants were asked to submit a resume.

(Respondent Exhibit 3)

6. The two questions asked were:

1. WORK EXPERIENCES: Describe your major accomplishments in the area of Geographic Information Systems. Include in your response the nature and scope of your duties and responsibilities.
2. The Wisconsin Department of Natural Resources is the principle state agency responsible for environmental protection and conservation of natural resources. The mission of the agency is to protect and enhance our natural resources - air, land, water, wildlife, fish and forests and to provide a clean environment and a full range of outdoor opportunities.

The agency has about 2,500 employees throughout the state with the central office located in Madison. About two-thirds of the department's employees are stationed in field offices attached to six operating districts.

As leader of the Geographic Information Systems team, how would you proceed to establish an agency Geographic Information System for the Wisconsin DNR?

7. Mr. Nash completed the expanded application form by answering the questions and returned it in a timely manner to the Department of Natural Resources (DNR) along with a copy of his resume.

8. The expanded applications were reviewed by Janet Price based on screening criteria developed by Sharon Michel. The screening criteria was reviewed and approved by the personnel staff of DNR and a specialist in the Division of Merit Recruitment and Selection (DMRS) in the Department of Employment Relations.

9. Price rated each question on the expanded application on a scale of 1 to 10 using the screening criteria. As part of her evaluation, Ms. Price also reviewed the resumes submitted by each of the applicants.

10. These ratings were then sent to the DNR Personnel Office where they were reviewed by a professional staff member and a test specialist from DMRS. Based on this review, a cutoff score was established to determine which applicants would be invited to the oral portion of the examination for the MIS - 6 - Team Leader - Geographic Information Systems.

11. Mr. Nash did not score high enough on the expanded application to be invited to the oral examination. In the letter he received, Mr. Nash was advised that he was eliminated from further consideration because he did not have sufficient experience or skill in the areas of cost/benefit analysis, project management, and work planning and scheduling.

12. Mr. Nash met with DNR and DMRS to discuss the issue of his elimination from the examination process. He subsequently filed a timely appeal with the Commission.

13. At the pre-hearing conference, Mr. Nash asked that the Commission appoint a hearing examiner with final authority to make a decision on this matter for the Commission. The Commission heard arguments on the appellant's motion and determined that the opportunity for meaningful remedy generates an emergency as that term is used in s. 227.44, Stats. Additionally, a hearing examiner was appointed with authority to issue a final decision for the Commission under s. 227.46(3)(a), Stats.

CONCLUSIONS OF LAW

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

2. The burden of proof is on the appellant to establish that the examination was not conducted in accordance with §230.16 (5), Stats.

3. The appellant has not sustained that burden.

4. The examination was conducted in accordance with §230.16(5), Stats.

DISCUSSION

There is no material dispute of facts in this case. The issue in this case is:

"Whether the respondents violated s. 230.16(5), Stats., in denying the appellant admission to the oral portion of the examination for Management Information Specialist 6 - Geographic Information Systems Team Leader."

Specifically, s. 230.16(5), Stats., cited in the above issue reads:

230.16 (5) In the interest of sound personnel management, consideration of applicants and service to agencies, the administrator may set a standard for proceeding to subsequent steps in an examination, provided that all applicants are fairly treated and due notice has been given. The standard may be at or above the passing point set by

the administrator for any portion of the examination. The administrator shall utilize appropriate scientific techniques and procedures in administering the selection process, in rating the results of examinations and in determining the relative ratings of the competitors.

The appellant contends that the job announcement was flawed in not emphasizing the areas of cost/benefit analysis, project management, and work planning and scheduling in more specific terms. To support this point, Mr. Nash introduced a job announcement issued for a Management Information Supervisor (MISupv) 5 position in DNR which specifically highlighted the knowledge and skills which would be used as the basis for reviewing resumes. (MISupv 5 is at the same pay level as the MIS 6 position in this case, and, in fact, this position was at one time classified as a MISupv 5.)

Mr. Nash testified that had information on the areas for which he was rejected been requested, it would have been supplied.

Additionally, Mr. Nash points out that he was eliminated from the examination process because he did not have project management experience. However, the job announcement identifies that applicants have to have knowledge of project management techniques.

The respondent's case revolved primarily around the basis used for developing the examination. Job experts from DNR were used, and all aspects of the development of the examination and screening criteria, and establishment of a cutoff point for applicants to advance to the oral examination were approved by test development experts in DMRS.

While the Commission might agree that there was a different way to put out the job announcement or construct the examination, such an opinion can not constitute the basis for a conclusion that the process was invalid. Indeed the first question on the expanded application requested the scope

and nature of the applicant's responsibility. Evaluators could determine from the answer whether applicants had project management experience or were in a position to develop knowledge of project management techniques. Consequently, a review of the resume would be supplemental, and not the only way to determine whether an application had experience or knowledge of the techniques.

It is difficult to conclude that applicants could not determine from looking at the job announcement that there were a number of areas in which skill or knowledge were required. It would be reasonable for an applicant to assume that an evaluation of the resumes and the expanded application would place emphasis on all the areas. Additionally, the job itself was one that would have to manage projects. It does not seem that experience or knowledge in the area of project management would be an unusual or superfluous requirement.

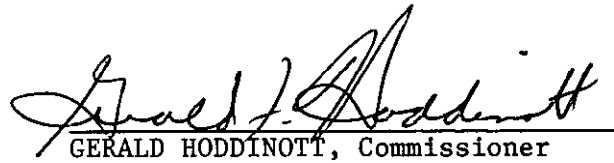
The testimony in this case identifies the process used to develop, administer, and rate the examination. Job experts testified that the examination was related to the job, and that they had received the approval of DMRS test experts on the validity and appropriateness of the procedure and the examination. Under all of these circumstances and considering the entire record, the Commission can not conclude on the basis that there might have been a different or better mechanism to announce and examine for this position that respondent violated s. 230.16(5), Stats.

ORDER

The actions of the administrator are affirmed and this appeal is dismissed.

Dated: November 18, 1988 STATE PERSONNEL COMMISSION

GFH:rcr
RCR03/2


GERALD HODDINOTT, Commissioner

Parties:

Kim Nash
134 Dempsey Road
Madison, WI 53714

Carroll Besadny
Secretary, DNR
P.O. Box 7921
Madison, WI 53707

Dan Wallock
Administrator, DMRS
P.O. Box 7855
Madison, WI 53707