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DONALD R. DORN,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 90-0154-PC

* * * * *

DECISION
AND
ORDER

This matter is before the Commission on an appeal of respondent's decision denying the request for reclassification of appellant's position from Audit Supervisor 1 to Audit Supervisor 2. A hearing was held on appellant's appeal, testimony was given, exhibits were received into evidence and the parties submitted post hearing briefs. The following findings of fact, conclusions of law, opinion and order are based on the evidentiary record made at the hearing. To the extent any of the opinion constitutes a finding of fact, it is adopted as such. ¹

FINDINGS OF FACT

1. In early 1989, the appellant, Donald Dorn, a permanent classified civil service employe with the Department of Transportation (DOT), requested reclassification of his position from Audit Supervisor 1 to Audit Supervisor 2.
2. Subsequently, in October, 1989, two classification analysts from the Department of Employee Relations (DER), conducted an on-site audit of appellant's position. They interviewed the appellant, his immediate supervisor, Mr. Schultz and, later, his bureau director, Ms. Czeshinski.
3. On January 16, 1990 DER issued a memorandum to the Personnel Manager for DOT, denying the request to reclassify appellant's position from Audit Supervisor 1 to Audit Supervisor 2.

¹ The Commission has added Conclusions of Law which had been left out of the Proposed Decision and Order. In addition, the Commission has made other changes to more clearly explain the Commission's rationale.

4. Later, additional information regarding appellant's position was presented to DER for further consideration. On April 13, 1990 DER issued another memorandum, which addressed the additional information, again concluding appellant's position did not meet the criteria for Audit Supervisor 2.

5. On May 1, 1990 appellant appealed the decision of DER, which denied the reclassification requested from Audit Supervisor 1 to Audit Supervisor 2 to the Personnel Commission.

6. In 1981 appellant's position held the classification of Audit Supervisor 1. His principle duties and time percentages as identified in his 1981 position description (PD) were:

TIME %	GOALS AND WORKER ACTIVITIES
60%	<p>A. Supervise, assign, prepare work programs, and review the working papers of professionals engaged in field audits of complex organizations in accordance with Generally Accepted Auditing Standards and United States General Accounting Office Standards.</p> <p>A1. Prepare schedule of audits to be performed in assigned programs.</p> <p>A2. Approve the purpose, scope and approach of assigned audits.</p> <p>A3. Direct audits to assure professional standards are maintained in planning execution.</p> <p>A4. Counsel and guide auditors to see that approved audit objectives are met.</p> <p>A5. Review audit work papers and reports on complex agencies to assure their compliance with statutory and federal policies and guidelines.</p> <p>A6. Review and edit annual reports of financial activities of county highway departments.</p> <p>A7. Supervise the gathering and accumulation of financial cost data for the purpose of developing state wide machinery rental rates for equipment use on state highways.</p> <p>A8. Participate in the conduct of complex audits of large organizations and firms.</p>
30%	<p>B. Leadership and direction to licensed CPA's who perform required audits and fiscal personnel of agencies performing transportation related work.</p> <p>B1. Develop and maintain highly technical guidelines and procedures for accounting systems used in agencies receiving transportation grants or contracts.</p> <p>B2. Develop and maintain guidelines for CPA's conducting audits of agencies performing work for the</p>

United States Department of Transportation as the Wisconsin Department of Transportation.

- B3. Review and evaluate the performance of CPA firms conducting audits of agencies performing work for USDOT or WisDOT.
- B4. Review the reports submitted by CPA firms to identify non-compliance with Federal or State policies and refer them to program managers for proper resolution.
- B5. Prepare and conduct information meetings and provide expert advice for licensed auditors on statutory requirement, compliance procedures and guidelines.
- B6. Prepare and conduct workshops for accounting and program personnel in highly technical grant accounting systems and compliance guidelines and procedures.
- B7. Communicate and maintain an effective relationship with local unites of government, Federal Agencies, CPA's and other agencies working with the Wisconsin Department of Transportation.
- B8. Organize and conduct verification audits of a representative sample of the audits completed by licensed accountants to determine audit compliance and accuracy.

- 10% C. Administration and program development in accomplishing the audit sections work requirements.
 - C1. Interpret laws and regulations needed to meet the transportation department's compliance with "OMB Circular A-102, Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments".
 - C2. Assist in the development and maintaining of an external audit manual.
 - C3. Make written or oral presentations to WisDOT program managers and other interested parties or organizations on audit activities and compliance requirements.

7. Appellant's October 31, 1988 PD, which was sent to respondent with the reclassification request, is in principle part as follows:

- 40% A. Supervise, assign, prepare work programs and review the working papers of professionals engaged in field audits of complex organizations in accordance with Generally Accepted Auditing Standards and Generally Accepted Governmental Auditing Standards.
 - A1. Prepare schedule of audits to be performed in assigned programs.
 - A2. Approve the purpose, scope and approach of assigned audits.

- A3. Direct audits to assure professional standards are maintained in planning and execution.
 - A4. Counsel and guide auditors to see that approved audit objectives are met.
 - A5. Review audit work papers and reports on complex agencies to assure their compliance with statutory and federal policies and guidelines.
 - A6. Assist in the review and editing of annual reports of financial activities of county highway departments.
 - A7. Responsible for the review of audited contractor financial statements and the assigning of financial factors for the purpose of bidding on state highway construction contracts.
 - A8. Participate in the conduct of complex audits of large organizations and firms.
- 45% B. Leadership and direction to licensed CPA's who perform required audits and fiscal personnel of agencies performing transportation related work.
- B1. Develop and maintain highly technical guidelines and procedures for accounting systems used in agencies receiving transportation grants or contracts.
 - B2. Develop and maintain guidelines for CPA's conducting audits of agencies performing work for the United States Department of Transportation and the Wisconsin Department of Transportation.
 - B3. Review and evaluate the performance of CPA firms conducting audits of agencies performing work for USDOT and/or WisDOT.
 - B4. Review the reports submitted by CPA firms to identify non-compliance with Federal or State policies and refer them to program managers for proper resolution.
 - B5. Prepare and conduct information meetings and provide expert advice for licensed auditors on statutory requirements, compliance procedures and guidelines.
 - B6. Prepare and conduct workshops for accounting and program personnel in highly technical grant accounting systems and compliance guidelines and procedures.
 - B7. Communicate and maintain an effective relationship with local units of government, Federal agencies, licensed CAP's and other agencies working with the Wisconsin Department of Transportation.
 - B8. Organize and conduct verification audits of a representative sample of the audits completed by licensed accounts to determine audit compliance and accuracy.
 - B9. Supervise the cognizant responsibilities of the Department as they relate to counties, planning

commissions and local units of government under OMB Circular A-128, the Federal Single Audit Act, and the State Single Audit Act.

- 15% C. Administrative and program development in accomplishing the audit sections work requirements.
- C1. Interpret laws and regulations needed to meet the Transportation Department's compliance with OMB Circular A-102, Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments.
 - C2. Responsible for the review of professional pronouncements from the AICPA to determine their application to accounting and auditing practices that affect the Section's auditing practices.
 - C3. Assist in the development and maintenance of the sections audit manual.
 - C4. Make written and oral presentations to WisDOT program managers and other interested parties or organizations on audit activities and compliance requirements.
 - C5. Develop and prepare technical assistance materials on financial accounting and auditing practices.
 - C6. Interview, recommend hirings, merit evaluations, disciplinary actions and the formal training of professional auditors assigned to the unit.

8. Changes in appellant's position between 1981 and 1988 include: a reduction from 60% to 40% in time spent on Goal A, an increase from 30% to 45% in time spent on Goal B and an increase from 10% to 15% in time spent on Goal C.

9. The time increase of 15% in Goal B of appellant's 1988 PD, primarily, was due to added responsibilities given appellant as a result of the federal Single Audit Act. The additional duties included liaison functions to other state, county and local units of government.

10. Appellant supervised four auditors and provided guidance and assistance to private CPA's, who performed the majority of the agency's audits.

11. State position standards describe the Audit Supervisor 1 position as:

. . . very responsible professional work supervising the examination of financial transactions or tax returns of individuals, state agencies, governmental units, business firms or other comparable entities. Employees in this class normally function in one of the following capacities: 1) supervisor of a performance audit program for a large and complex state agency; 2) supervisor of a highly specialized and complex office audit program, such as; 3) assistant supervisor of a large, technical, and complex field audit

program in a district tax office which includes income, sales, excise, gift, withholding, inheritance, and small corporation tax auditing. In all instances, significant responsibilities for program and policy development do exist. Supervision is received in the form of general administrative review and the evaluation of program results.

Areas of Specialization:

Individual income, sales and excise tax, real estate brokerage, municipal audit, state audit, or any other comparable area of specialization.

Examples of Work Performed:

Train new employees, initiate and/or effectively recommend hiring, merit evaluations, disciplinary actions, and the assignment of work for a large staff of professional subordinates.

Actively participate in revising, developing and implementing internal and departmental rules, policies and procedures affecting the audit programs.

Review working papers and audit reports for accuracy and content.

Consult with attorneys, public accountants, and business managers regarding audit findings and conclusions.

Participate in conducting complex audits of a critical or sensitive nature.

Prepare exhibits and reports and appear as an expert witness at hearings or in court.

Make oral and written reports of audit findings and recommendations.

Apply laws and regulations and interpret administrative procedures.

Perform related work as required.

The Audit Supervisor 2 position is described as:

. . . advanced, highly responsible professional auditing work supervising the examination of financial transactions or tax returns of individuals, state agencies, governmental units, business firms or other comparable entities. Employees in this class typically supervise a large staff of professionals engaged in a comprehensive, technical, and complex field audit program, such as normally found in a district tax office, or function as assistant supervisors of a highly complex state wide audit program of a very specialized nature, or supervise the performance audits of complex state agencies within a functional area, such as the State University system. In addition, employees in this class play a major role in the development and revision of rules, policies and procedures affecting the administration of both the audit program and operations of the agency involved. The work is performed under general administrative direction.

Areas of Specialization:

Individual income tax, corporation tax, inheritance tax, county and municipal highway audit, public utilities, state audit, municipal audit, or any other comparable area of specialization.

Examples of Work Performed:

Issue directives and counsel subordinate staff regarding law changes, field audit procedures, inter-agency cooperation, etc.

Train new employees, initiate or effectively recommend hiring, merit evaluations, disciplinary actions, and the assignment of work for a large staff of subordinate employees.

Develop internal audit procedures and assist in developing general agency operating policies and procedures.

Direct the administration of highly complex audits having unique or sensitive problem areas.

Provide expert advice on specialized accounting programs and accounting systems including their installation and maintenance, and the applicable legal requirements.

Conduct fiscal investigations and appear as an expert witness at hearings or in court.

Make oral reports to governing bodies on audit findings.

Supervise special audit programs of state wide extent.

Conduct specialized staff training programs.

Explain and interpret laws, rules and regulations of the employing department to local officials and the public.

Keeps records and makes reports.

Perform related work.

13. Appellant's position does not meet the requirements of the allocation patterns for Audit Supervisor 2: He does not supervise a large staff of professionals engaged in a comprehensive, technical and complex field audit program, or function as assistant supervisor of a highly complex statewide audit program of a very specialized nature, or supervise the performance audits of complex state agencies within a functional area. Appellant's position plays an important but not major role in developing department rules, policies and procedures.

14. Appellant's position is more appropriately classified as Audit Supervisor 1.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to §230.44(1)(b) stats.

2. Appellant has the burden of proving by a preponderance of the evidence facts necessary to show respondent's decision denying his reclassification request was incorrect.

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

4. Respondent's decision denying reclassification of appellant's position from Audit Supervisor 1 to Audit Supervisor 2 was correct.

OPINION

In reclassification cases, the Commission must consider class specifications and actual work performed to determine which classification best fits the position. Frequently, duties and responsibilities overlap classifications, but a position is not entitled to reclassification unless the majority of total duties and responsibilities fall within the higher classification. Kailin v. Weaver & Wettengel, 73-124-PC (11/28/73); Bender v. DOA, 80-210-PC (7/1/81). Further, for reclassification, the assignment of new higher level duties to a position must be logical and gradual. Shorey v. DILHR & DER, 87-0070-PC, 2/1/88. Finally, the Commission must apply class specifications and positions standards currently in effect. Zhe et al. v. DHSS & DP, 80-285-PC, 11/19/81; affirmed by Dane County Circuit Court, Zhe et al v. PC, 81-CV-6492, 11/2/82.

Appellant argues that his position should be at the Audit Supervisor 2 level because of the changes in his position since March 1981. Witnesses presented by appellant testified that in 1984 the federal government passed the Single Audit Act. Subsequently, the state passed a similar Single Audit Act. These two enactments impacted audit programs, policies and procedures in state and local units of government. In 1986, DOT eliminated its Internal Audit unit. More reliance was placed on private CPA firms and other agencies.

Appellant was one of two unit supervisors in the Audit Section of DOT Bureau of Accounting and Auditing. Both positions were classified as Audit Supervisor 1. Appellant's duties changed from reviewing project audits to monitoring financial systems and reviewing operational units. More emphasis was being placed on administering programs. These changes were reflected in appellant's 1988 position description (PD). The time spent on Goal A, supervising and reviewing the work of DOT auditors was decreased from 60% in 1981 to 40%. Time designated for Goal B, providing direction to private CPA firms and other agencies performing related work, was increased from 30% in 1981 to 45%.

Goal B in the 1981 and 1988 PD's is substantially the same except an additional activity, item B9 was added to the 1988 PD. Under item B9, appellant was given the charge, of supervising the responsibilities of DOT under the OMB Circular A-128, the federal Single Audit Act and the state Single Audit Act, as they related to counties, planning commissions and local units of government.

The percentage of time designated for Goal C in appellant's 1988 PD was increased from 10% in 1981 to 15%, and three new duties items C2, C5 and C6 were added. These new responsibilities, reviewing AICPA pronouncements and generating technical assistance materials on accounting and auditing procedures, were the result of the new state and federal audit acts.

With the exceptions as noted, appellant's 1981 and 1988 PD's are remarkably the same. It is the belief of the Commission that, although appellant's position has changed, these changes do not strengthen his position sufficiently to justify classification at the higher level.

Appellant also argues that his duties and responsibilities compare favorably with Audit Supervisor 2 and Auditor 6 positions in other state agencies. However, the evidence does not support these contentions. Auditor 6 positions are readily distinguishable from appellant's since he unlike an Auditor 6 is a supervisor. While appellant acknowledges that part, he contends his position in all other respects is comparable to Auditor 6 positions, which are pegged at the same pay range as Audit Supervisor 2 position. Assuming appellant's allegations regarding Auditor 6 positions are correct, the Commission has no authority to consider classification pay levels and is bound by the classification series specifically applicable to the position under scrutiny. In the instant matter, appellant is a supervisor. Thus the Commission is restricted to considering only classification series applicable to positions with auditing and supervisory functions.


The evidence establishes that appellant's position may be comparable in some aspects, to Audit Supervisor 2 positions, but not applicable to Audit Supervisor 2 allocation position requirements. For instance, appellant's position and the Higgins position at DHSS supervise comparably sized staff, but Higgins unlike appellant, meets the second allocation pattern in the Audit Supervisor 2 specification.

For the above stated reasons, the Commission respondent's decision should be affirmed.

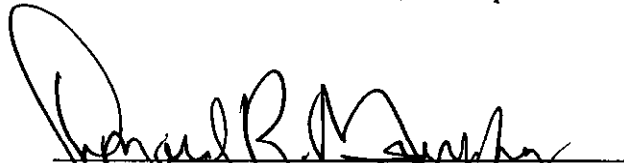
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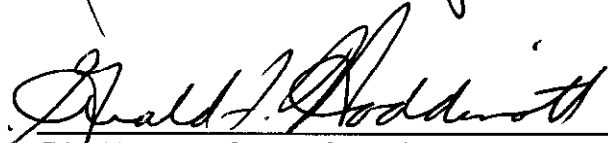
Respondent's decision is affirmed and this appeal is dismissed.

Dated: April 5, 1991 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

DRM/gdt/2


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

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