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CARL BRANDENBURG,  
 Appellant,

v.

Secretary, DEPARTMENT OF  
 EMPLOYMENT RELATIONS,  
 Respondent.

Case No. 91-0063-PC

\* \* \* \* \*

DECISION  
AND  
ORDER

NATURE OF THE CASE

This is an appeal of a decision to reallocate appellant's position. A hearing was held on October 4, 1991, before Laurie R. McCallum, Chairperson, and the briefing schedule was completed on January 6, 1991.

FINDINGS OF FACT

1. At all times relevant to this appeal, appellant has been employed in a classified position in the Contracts Development Section of respondent DOT's Central Office. As the result of a personnel management survey, appellant's position was reallocated from Civil Engineer 5 (Transportation)-Supervisor to Civil Engineer-Transportation-Supervisor 4. Appellant filed a timely appeal of such reallocation with the Commission.

2. The working title of appellant's position is Plans Development Engineer Supervisor and the duties and responsibilities of appellant's position are accurately described in a position description signed by appellant on April 16, 1990. These duties and responsibilities may be summarized as follows:

- 55% A. Supervise the quality control review of plans and estimates submitted by the 8 Division of Highways Districts which includes those by consultants and municipalities. This includes prioritizing and scheduling reviews; assigning reviews to subordinate plan checkers based on individual experience and expertise; deciding issues raised by reviews and recommending changes to supervisors; directing the incorporation of changes into plans; assuring consistency of bid items between plans, proposals, and estimates; identifying Special Provision bid items;

instituting procedures and monitoring performance to assure accuracy of corrections to estimates; advising design coordinators and district design supervisors in regard to correct plan preparation procedures.

24% B. Review and Process highway improvement project specifications. This includes examining and processing project proposals by assembling proposals to assure completeness and correlating proposals with plans and specifications; inspecting and editing special provisions; and revising and preparing new contract material. This function is also performed by the Contracts Development Engineer position which is classified at the Civil Engineer-Transportation-Supervisor 3 level.

8% C. Coordinate review and processing of plans and estimates and modifications of plans and estimates with design coordinators and district design supervisors, plans and contracts engineer, and other sections/agencies with responsibility for supporting plan requirements.

8% D. Provide guidance and training regarding quality control and preparation of highway plans.

2% E. Assist the Chief Plans and Contracts Engineer in the formulation, administration, and development of criteria and standards for the quality control and contractuality of highway improvement plans.

1% F. Supervise the processing, microfilming, and filing of "As Built Plans" for permanent record file.

1% G. Maintain working knowledge of unit video terminal and electronic printer.

1% H. Perform administrative functions including approving and scheduling vacations, conducting performance evaluations, establish operating procedures, and approving time and travel expense reports.

3. Appellant's position supervises 4 Engineering Specialist-Transportation positions which function as plan checkers. Three of these positions are classified at the Advanced 1 level and one at the Journey level. Appellant's position does not supervise any positions classified in the Civil Engineer series or any other positions at a higher classification level than these Engineering Specialist positions. Appellant's position is responsible for review of plans and estimates for all road and bridge contracts ranging from single span rural bridges to complex freeway interchanges.

4. Positions offered for comparison purposes in the hearing record include:

a. James D. Whalen--Civil Engineer-Transportation-Advanced 2-- This position functions as a Project Development Engineer and is responsible for coordinating the administration of project development activities for District 6, 7, and 8. This includes review and approval of project concepts; guiding, advising, and providing functional supervision to district design supervisors and staff during project development; coordinating Central Office and District design activities; approving, on a delegated basis, design concepts, details, and Design Study Reports; reviewing plans and specifications for conformance with State and Federal policies, procedures, criteria, standards and other requirements and recommending modifications to secure conformance; coordinating District development progress and schedules with statewide policies and objectives; providing advice relating to the development and maintenance of short and long range improvement programs; evaluating contract letting schedules for attainability, timeliness, continuity of stage construction, and recommending appropriate changes; suggesting funding strategies to insure full utilization of program monies; coordinating with Federal Highway Administration to secure concurrence in project concepts, design details, exceptions to Federal requirements, and all other matters relating to highway design; coordinating engineering aspects with environmental requirements and concerns; assuring that the various permits, agreements, and clearances required for project advancement are obtained; advising and guiding District regarding consultant engineering contracts; negotiating directly with consultants to secure services for specialized project development activities; direction of work of Assistant Project Development Engineer (10%); development and coordination of policies, procedures, criteria, and standards relating to project development and design (10%); communication of information relating to highways and transportation facilities to the public and to local, state, and federal officials (10%).

b. Mark W. Truby--Civil Engineer-Transportation-Supervisor 4-- This position is responsible for the development, revision, and continual improvement of the DOT Facilities Development Manual (which governs each aspect of the facilities development process followed by DOT's Division of Highways and Transportation Services) by conducting research to assure that the standard of technology in the manual reflects the latest engineering innovations, to determine whether revisions are necessary in view of changes at the federal level, and to insure that the manual consistently reflects current agency policy and procedures; developing new policies or modifications to existing policies consistent with the results of this research; and providing training and facilitating communication relating to the content of the manual

(35%); development and implementation of new standards, policies and technology relating to highway design by researching and reviewing existing literature, identifying and acquiring the services of consultants to conduct studies when agency resources are not available, coordinating the collection of data by means of field measurements or solicitation of information from other state agencies or other states, organizing and analyzing the data using accepted statistical methods and available computer technology, developing conclusions and recommendations based on the data, reporting on the results of any special project, and reviewing reports prepared by outside sources for accuracy and applicability to agency operations (30%); supervision of technical services staff of the Methods Development Section in Central Office Design (15%); provision of technical guidance and assistance to the Chief Methods Development Engineer and other section supervisors in Central Office Design (10%); coordination, publication, maintenance, and distribution of manual to DOT staff, consultants, municipalities and other outside agencies (5%); liaison between Central Office Design and other units of DOT (5%). This position supervises a Civil Engineer-Transportation-Advanced 1 level position.

5. The position standard for the Civil Engineer-Transportation-Supervisor series states as follows, in pertinent part:

#### CIVIL ENGINEER - TRANSPORTATION SUPERVISOR 3

Positions at this level perform professional supervisory work in the field of civil engineering transportation. Positions allocated to this class directly supervise a medium to large unit (more than 6 FTE) of professional journey level civil engineers in transportation OR the positions supervise staff as described in level 1 or 2 and perform advanced 1 civil engineering work in transportation.

#### CIVIL ENGINEER - TRANSPORTATION SUPERVISOR 4

Positions at this level perform professional supervisory work in the field of civil engineering in transportation. Positions allocated to this class directly supervise: (1) a small to medium unit (1 to 10 FTE) of senior or advanced civil engineers in transportation OR (2) perform advanced 2 civil engineering work and supervise a staff as described in level 1, 2 or 3.

#### EXAMPLES OF WORK:

Typically positions assigned to this level supervise a large number of subunits, such as design squads or construction projects with the majority of these projects being the more complex projects. Duties include the supervision and direction of senior or advanced level civil engineers who also direct the work of others.

Positions at this level may supervise staff in the development of policies and procedures for the design, construction, maintenance or operation of transportation facilities. Positions with this focus, however, directly supervise civil engineers who are at the advanced 1 level.

6. The position standard for the Civil Engineer-Transportation series states as follows, in pertinent part:

CIVIL ENGINEER - TRANSPORTATION - ADVANCED 1

CIVIL ENGINEER - TRANSPORTATION - ADVANCED 1 - MANAGEMENT

This is advanced level 1 civil engineering work in such areas as planning, design, construction, maintenance, traffic, materials and/or operation of highways, structures, and other transportation facilities for which the department may be responsible. Positions at this level differ from lower level positions in that the engineer develops and follows his/her own broadly defined work objectives and the review of the work is limited to broad administrative evaluation by the supervisor. Positions at this level have extensive authority to deal with local officials, Federal Highway Administration officials, and agency top officials, especially in highly sensitive and complex issues and areas. The work performed by these engineers requires a high level of interpretation and creativity and has major impact on the planning, design, construction, maintenance and operation of transportation facilities. The engineer may be considered the in-depth expert in a specialty area. The work is performed under general supervision.

CENTRAL OFFICE - DIVISION OF HIGHWAYS AND TRANSPORTATION SERVICES

Design

Project Development Engineer

Positions at this level and in this area, provide guidance, project coordination, and review of highway designs and plans prepared by the Districts; assist in reviewing concept definition reports, environmental studies and reports, design study reports and plan preparation as well as assist in securing federal approvals as required; conduct field and office reviews; evaluate geometric design features and pavement designs.

Standards Development Engineer

Positions at this level and in this area, advise and assist the Chief Methods Development Engineer with the formulation, implementation and maintenance of the Department's standard procedures, criteria and guides for the geometric design of highways and

streets; develop, maintain and publish in the Facilities Development Manual standard procedures and criteria for the geometric design of highways and streets; investigate and evaluate the effectiveness of current design procedures, criteria, guides and practices and develop/recommend appropriate improvements; evaluate research information relative to highway engineering for implementation and/or technology transfer to others; develop, maintain and publish standard detail drawings in the Facilities Development Manual; evaluate products from industry suppliers, fabricators and contractors to examine their cost-effectiveness and potential for application; evaluate district developed contract plans for potential development into standard detail drawings or CADDs cell drawings; develop policy recommendations relative to geometric design of highways.

CIVIL ENGINEER - TRANSPORTATION - ADVANCED 2

CIVIL ENGINEER - TRANSPORTATION - ADVANCED 2 - MANAGEMENT

This is advanced level 2 civil engineering work in such areas as planning, design, construction, maintenance, traffic, materials and/or operation of highways, structures, and other transportation facilities for which the department may be responsible. Positions allocated to this class perform the most technically complex project management engineering assignments involving policy, standards, and procedure development, evaluation, budget and administration.

Employees at this level function as the chief technical consultant to lower level engineers, engineer supervisors, and engineer managers. Work is performed under the general policy direction of an engineer manager with authority to make statewide decisions on major technical/professional matters.

7. The duties and responsibilities of appellant's position are better described by the language of the Civil Engineer-Transportation-Supervisor 3 classification than those for the Supervisor 4 classification and are weaker from a classification standpoint than those of the Supervisor 4 position and the Civil Engineer-Transportation-Advanced 2 position offered for comparison purposes in the hearing record.

CONCLUSIONS OF LAW

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

2. The appellant has the burden to show that respondent's decision to reallocate his position to Civil Engineer-Transportation-Supervisor 3 instead of to Supervisor 4 was incorrect.

3. The appellant has failed to sustain this burden.

4. Appellant's position is more appropriately classified at the Supervisor 3 level.

#### OPINION

The issue to which the parties agreed is:

Whether respondent's decision reallocating appellant's position to Civil Engineer-Transportation-Supervisor 3 instead of Civil Engineer-Transportation-Supervisor 4 was correct.

Since appellant's position does not supervise any Civil Engineer positions, it would have to satisfy the requirements of the second allocation of the Supervisor 4 classification specifications, i.e., performance of Advanced 2 level civil engineering work in addition to supervision of subordinate employees, in order to justify classification at the Supervisor 4 level. This would require that appellant's position "perform the most technically complex project management engineering assignments involving policy, standards, and procedure development, evaluation, budget and administration" and "have authority to make statewide decisions on major technical/professional matters." The record indicates that appellant is not considered a "project manager" but a "program manager." Even if this distinction was not significant for purposes of applying the Advanced 2 specifications, the record does not show that appellant's position performs the "most technically complex" assignments in the plan or contract review area the majority of the time. In fact, the record shows that appellant's position handles a range of these assignments, from the smallest and least complex to the largest and most complex, and does not show what percentage of time appellant's position devotes to the largest and most complex. In addition, appellant's position spends a very small percentage of time on developing policies, standards, or procedures, or on project (or program) evaluation, budget, or administration (See Goals E and H of Finding of Fact 2, above); and only serves in an advisory capacity to his supervisor in fulfilling this function. Finally, although appellant's position has authority, on a delegated basis, to approve most

appellant reviews, these do not constitute "statewide decisions on major technical/professional matters" within the meaning of the Advanced 2 specifications.

Appellant's position is also weaker, from a classification standpoint, than the Advanced 2 and the Supervisor 4 positions offered for comparison purposes in the hearing record (See Finding of Fact 4, above). The Whalen position devotes a much larger percentage of time to developing policies, procedures, criteria, and standards; has a wider variety and more extensive contacts with the public and local, state, and federal officials; and deals with a wider variety of issues and with less well-defined issues such as program funding issues, environmental issues, retention of outside consultants, and short and long range improvement projects. The Truby position supervises an Advanced 1 level Civil Engineer; and spends the majority of time developing policies, procedures, and standards in all areas of transportation facilities development and highway design.

The final question then is whether the duties and responsibilities of appellant's position are better described by the specifications for the Supervisor 3 and Advanced 1 classifications. Appellant's position does have authority to deal with top DOT officials and, to an extent, with federal highway officials and occasionally does so with respect to complex issues and areas. The work of appellant's position does, a majority of the time, require a high level of interpretation and creativity and has a major impact on the design of transportation facilities. Appellant's position is also considered the in-depth expert in the area of plan and estimate review. The duties and responsibilities of appellant's position appear to be well-described by the specifications for the Supervisor 3 and Advanced 1 classifications. Although there is testimony in the record from appellant's second-line supervisor to the effect that the duties and responsibilities of appellant's position are more complex than those of certain district project engineers classified at the Advanced 1 level, this evidence is not sufficient to support a conclusion that appellant's position is more appropriately classified at a higher level than these district positions. Each classification is composed of positions of varying strengths. In other words, two positions can be appropriately classified at the same level even if one is stronger, from a classification standpoint, than the other. The question is whether the stronger position is sufficiently strong to justify classification



at the higher level and, as it relates to appellant's position here, the Commission has concluded that it is not.


ORDER

The action of respondent is affirmed and this appeal is dismissed.

Dated: March 19, 1992 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

LRM/lrm/gdt/2

  
DONALD R. MURPHY, Commissioner

  
GERALD F. HODDINOTT, Commissioner

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