STATE OF WISCONSIN PERSONNEL COMMISSION

CRAIG D. WEHRLE,

Appellant,

v.

Secretary, DEPARTMENT OF EMPLOYMENT RELATIONS,

Respondent.

Case No. 91-0170-PC

INTERIM DECISION AND ORDER

Nature of the Case

This is an appeal of a decision to reallocate appellant's position. A hearing was held on February 11, 1992, before Laurie R. McCallum, Chairperson. The parties were permitted to file briefs and the briefing schedule was completed on April 24, 1992.

Findings of Fact

1. At all times relevant to this matter, appellant has been employed by the Department of Transportation (DOT), Division of Highways and Transportation Services, Bridge Office, Bridge Plans and Fabrication Section, in a position with a working title of Bridge Fabrication Unit Supervisor.

2. Respondent conducted a personnel management survey of certain engineering positions, including appellant's, and implemented the survey effective June, 1990 Pursuant to such survey, appellant's position was reallocated to the Civil Engineer-Transportation-Supervisor 3 level.

3. The primary responsibility of appellant's position is to assure that the material and weldments which comprise the fabrication of very complex non-redundant fracture-critical steel highway/railroad structures are constructed to the strict specified tolerances necessary for proper fitting during the assembly and erection of the structure and that the completed structure does not contain any defects that could cause costly field repairs or catastrophic failure. This responsibility results in appellant's position being

involved in the design, fabrication, construction, and repair of bridge, railroad, and other transportation structures in the following manner:

a. Design--reviewing the fabrication components of construction plans prepared by other engineers to determine whether the materials and the method of fabrication proposed to be used will accomplish what is intended and will meet the requirements of the applicable specifications.

b. Fabrication--determining whether the metal fabricator is qualified to do the work required by the construction plans and determining whether the metal fabricator's work product meets the requirements of the applicable specifications. This is accomplished by reviewing shop drawings and by on-site inspection of shops. Such review and inspection is performed by the three engineering specialist positions supervised by appellant's position or by private inspection agencies which are selected and monitored by appellant's position. The most complex reviews and inspections and any complex problems which arise during reviews and inspections are handled by appellant's position.

c. Construction and Repair--developing solutions for problems relating to metal structures, including conducting non-destructive testing to detect area and extent of flaws in metal parts and overseeing repair work or corrective procedures.

Appellant's position is also involved in developing policies, procedures, and specifications relating to metal transportation structures; developing the welding sections of the Bridge and Construction manuals; conducting training for fabrication and construction personnel; and conducting research relating to new products and techniques. Appellant spends approximately two days of each work week at construction sites providing consultant services to construction projects relating to metal transportation structures.

4. Appellant functions as the agency expert in the areas of metallurgy, metal fabrication, welding science, and stress and fatigue mechanics. Each of these is a separate area of expertise within the engineering field and an expert in one is not necessarily an expert in any of the others.

5. The following positions were offered for comparison purposes in the hearing record:

a. C. Ray--Civil Engineer-Transportation-Supervisor 4--Bridge Office, Bridge Plans and Fabrication Section--Consultant, Plan

Review and Bridge File: this position reviews preliminary consultant plans for bridge design for concrete and steel bridges for conformance with requirements of Bridge manual and Bridge Office standards. The technical complexity of the engineering work required to perform the duties and responsibilities of this position is comparable to that required of appellant's position.

b. L. Schuchardt--Civil Engineer-Transportation-Advanced 2--Bridge Office, Bridge Development Section, Research and Standards: this position coordinates the development and maintenance of computer programs, manuals, and standards for the design of transportation structures by: reviewing relevant publications for current information on new structure types, structure designs, construction techniques, and products; evaluating, through applied research or otherwise, and recommending whether such new structure types, structure designs, construction techniques and/or products should be utilized; revising standards, specifications, manuals to incorporate approved new structure types, structure designs, construction techniques, and/or products; and developing and/or modifying supporting computer systems to incorporate these revisions, including systems which contain artificial intelligence and are capable of automated design. The knowledge base required of this position is comparable to that required of appellant's position, i.e., this position requires more extensive knowledge relating to computers while appellant's position requires more extensive knowledge of metallurgy, welding science, metal fabrication, stress and fatigue mechanics, and testing procedures and materials. This position would rely on technical experts such as appellant to interpret research data and to recommend and draft revisions to policies, procedures, specifications, standards, and manuals in technically complex areas.

c. J. Ziehr--Civil Engineer-Transportation-Supervisor 4--Bureau of Engineering Operations, Office of State Maintenance Engineer, Bridge Maintenance Section: this position coordinates the evaluation and development of procedures for carrying out bridge maintenance to assure statewide uniformity; evaluates and develops policies and standards for the statewide bridge repair and repainting program; coordinates, with the Bridge Office and the District Offices, the preparation of bridge repair and repainting design and construction plans; coordinate the maintenance of bridges by the DOT, counties, and independent contractors; recommends award of contracts to independent contractors; recommend the hiring of consultants to prepare plans or conduct studies and drafts consultant contracts; develops specifications, cost estimates, and times estimates for major complex repairs and repainting; directs/conducts research on new surface preparation methods and new coating systems and specifications; evaluates the long-range Special Bridge Maintenance Program for consistency with the Bridge Inspection Program and integration with the Improvement Program; proposes a biennial budget

request for Special Bridge Maintenance Program; develops and monitors certain operating budgets.

d. G. Krumdick--Civil Engineer-Transportation-Supervisor 3--Bureau of Engineering Operations, Office of State Maintenance Engineer, Bridge Maintenance Section: this position monitors federal inspection requirements for the purpose of updating the DOT Bridge File; verifies that all state bridges are inspected as frequently as required; conducts field reviews of completed bridge inspection reports and inventory data to evaluate accuracy and uniformity; develops and directs in-depth bridge inspection program for bridges known to have deficiencies, fracture critical details, unusual movements, non-redundancy and characteristics requiring documentation of performance; develops and monitors underwater bridge inspection program, including scheduling inspectors and equipment, supervising the inspection on-site, retaining the services of private consulting firms, ; developing and conducting bridge inspection training programs for state, county, town, village, and city bridge inspectors; updating the DOT Bridge Inspection and Maintenance Manual; confirms that all load posted bridges are inspected as frequently as required and that proper signing is in place;

6. 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.

EXAMPLES OF WORK:

Positions allocated to this level function as first-line or unit supervisors in construction, design, traffic, maintenance and planning in the districts and function as unit supervisors in the central office. Typical duties of these positions in the districts include: supervise and direct engineers and technicians in carrying out work such as design project development, construction project management, traffic program, maintenance program and planning activities; assist the district section chiefs in carrying out the program of the section; provide guidance and coordination for consultant contracts. In the central office the duties include: supervise journey level civil engineers or advanced specialists in the development of policies and procedures for the design, construction, maintenance or operation of transportation facilities.

Positions assigned to this level may also supervise units as described in level 1 or 2 provided that the civil engineering work completed by the

supervisor is work normally completed as a civil engineer - transportation - advanced 1.

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.

7. The position standard for the Civil Engineer-Transportation-Management 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.

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.
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> Employes 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.

8. The level of the engineering work performed by appellant's position is more closely comparable to the level of the engineering work performed by the Supervisor 4 and Advanced 2 positions than it is to the Supervisor 3 position offered for comparison purposes. The duties and responsibilities of appellant's position are better described by the language of the Supervisor 4/Advanced 2 classification specifications than the language of the Supervisor 3/Advanced 1 classification specifications.

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 reallocation of appellant's position to the Civil Engineer-Transportation-Supervisor 3 level was incorrect.

3. The appellant has sustained this burden.

4. Appellant's position is more appropriately classified at the Civil Engineer-Transportation-Supervisor 4 level.

Opinion

The basic authority for classifying positions is the position standard. As a result, the Commission looks first to the language of the applicable position

standard(s) in resolving a dispute as to the appropriate classification of a position.

It is clear that appellant's position does not supervise lower level engineers. As a result, the level of the engineering work his position performs would, within the language of the Civil Engineer-Transportation-Supervisor position standard, determine the appropriate classification of his position. If appellant's position is assigned primarily Advanced 1 level engineering duties, his position would more appropriately be classified at the Supervisor 3 level; if his position is assigned primarily Advanced 2 level engineering duties, his position would more appropriately be classified at the Supervisor 4 level.

The Advanced 2 specifications first require that "(p)ositions allocated to this class perform the most technically complex project management engineering assignments involving policy, standards, and procedure development, evaluation, budget and administration." The "project management engineering assignment" of appellant's position is to manage the program which provides technically specialized services in the areas of metallurgy, welding, metal fabrication, and stress and fatigue mechanics in the design, fabrication, construction, and repair phases of projects. According to the record, the program managed by appellant is a technically complex one and the most technically complex assignments in this program are handled by appellant's position. Appellant's responsibilities in managing this program include the development of policies, standards, and procedures as well as research and evaluation.

The Advanced 2 specifications next require that "(e)mployees at this level function as the chief technical consultant to lower level engineers, engineer supervisors, and engineer managers." In contrast, the Advanced 1 specifications require that "(t)he engineer may be considered the in-depth expert in a specialty area." The position standard provides no guidance on what the difference is between a "chief technical consultant" and an "in-depth expert in a specialty area." In view of the testimony in the record relating to the high level of the technical complexity of the work performed by appellant's position; the fact that the record establishes that the four technical areas in which appellant serves as the statewide expert are separate areas of expertise within the engineering field; the fact that this work is done on a statewide basis and is done in the design, material fabrication, construction,

and repair phases; and that appellant's position is the only one at DOT which performs this work, the Commission concludes that appellant's position is more accurately described as a "chief technical consultant" as opposed to an "in-depth expert in a specialty area." This conclusion is reinforced by the conclusion drawn from expert testimony in the record that the technical complexity of the engineering work done by appellant's position and that done by the Supervisor 4 Ray position and the Advanced 2 Schuchardt position are comparable. Although it may have been useful to review the duties and responsibilities of representative positions listed in the position standards under consideration here, it appears that some of these representative positions may be classified at a level higher than that at which they are listed in the position standard as the result of an informal review of positions conducted by respondent after the standard was approved and the survey implemented. For example, it appears as thought the Schuchardt position cited in Finding of Fact 5.b., above, appears as a representative position for the Advanced 1 classification (Bridge Research Engineer) but is classified at the Advanced 2 level. The Commission concludes, based on the above, that the duties and responsibilities of appellant's position are better described by the language of the Supervisor 4 (Advanced 2) classification specifications than those of the Supervisor 3 (Advanced 1) classification specifications.

The Commission also relies on position comparisons in resolving classification disputes. The difficulty in comparing appellant's position to the positions cited in Finding of Fact 5.c and 5.d., above, is that these two positions appear to have a stronger administrative emphasis but a weaker technical/scientific emphasis than appellant's position. Although respondent's classification expert concluded that appellant's position was comparable to the Supervisor 3 Krumdick position (See Finding of Fact 5.d., above) because both positions spent the majority of time managing inspection programs, this conclusion appears to be overly simplistic. The record does not show how the technical complexity of the two positions compares or to what extent the Krumdick position is involved in the diagnosis or solution of problems encountered as a result of inspection. Some of these same difficulties attach in any attempt to compare appellant's position with the Supervisor 4 Ziehr (See Finding of Fact 5.c., above) position. Although the administrative aspects, particularly the budget development responsibilities, of the Ziehr position

appear to be stronger than those of appellant's position, the record does not show how the technical aspects of these two positions compare. A comparison of appellant's position with the Supervisor 4 Ray position and the Advanced 2 Schuchardt position (See Finding of Fact 5.a. and 5.b., above) is more straightforward since all appear to have a stronger technical emphasis than administrative emphasis. In addition, the record contains testimony from supervisors of these positions which concludes that the technical complexity of the work handled by these positions is comparable to the technical complexity of the work handled by appellant's position. The Commission concludes that, based on the record, the duties and responsibilities of appellant's position are more closely comparable to those of the Ray and Schuchardt positions than those of the Krumdick position.

Order

This action of respondent is rejected and this matter is remanded for action in accordance with this decision.

Dated: June 24, 1992 STATE PERSONNEL COMMISSION

LAURIE R. McCALLUM, Chairperson

LRM/lrm/gdt

DONALD R. MURPHY, Commissioner

GERALD F. HODDINOTT, Commissioner

Parties:

Craig D Wehrle
DOT Room 115B
4802 Sheboygan Ave HFSOB
P O Box 7910
Madison WI 53707-7910

Jon E Litscher
Secretary DER
137 E Wilson St
P O Box 7855
Madison WI 53707