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JAMES O. YTTRI,
 Appellant,

v.

Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS,
 Respondent.

Case No. 92-0261-PC

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DECISION
 AND
 ORDER

On April 30, 1992, James O. Yttri, appellant, under §230.44(1)(b), Stats., filed a timely appeal of the Department of Employment Relations' (DER) decision to reallocate his position to Engineering Technician-Transportation 4 instead of Engineering Specialist-Transportation-Journey. A hearing was held before Commissioner Donald R. Murphy, and post-hearing briefs were filed.

James Yttri's position was classified Engineering Technician-Transportation 4 as the result of DER's Engineer Survey, effective June 17, 1990. The position description (PD) used in that decision was signed by Yttri March 23, 1990, and testified by him as being accurate. It is as follows:

Position Summary

As construction survey crew chief, represents DOT in the direction of all work of the survey crew on complex highway and/or bridge construction projects. Establishes grade lines, horizontal control, and relative position of various facilities as the situation demands. Computes quantities and documents activities as appropriate to conform to established policies. Coordinates and trains crew members in the performance of their duties. Performs layout and drafting work in design.

Describe the Goals and Worker Activities of this Position

Time Goals and Worker Activities

75% A. Perform duties of a construction survey crew chief on complex projects. In conjunction with these projects performs survey on smaller projects in the vicinity.

- A1. Direct survey crew regarding procedures and stakeout of construction projects.
 - A2. Set and mark all control stakes establishing centerlines, grading limits, and configurations.
 - A3. Set all stakes for structure and drainage facilities.
 - A4. Measure all pay items for removal and keep records for payments.
 - A5. Check grades and dimensions during progress of the work.
 - A6. Set up and review computerized and/or written records required for surveying the construction project.
 - A7. Furnish information to the project engineer during work progress for inclusion into pay estimates.
 - A8. Direct survey crew members regarding use and care of equipment and procedures.
 - A9. Train survey crew members regarding use and care of equipment and procedures.
 - A10. Maintain a sense of duty to assure good relations with the public.
- 5% B. Quantities computation.
- B1. Compute for final payment the quantities of various contract items.
 - B2. Verify accuracy of quantity computations performed by others, recompute where methods or results are in error.
- 20% C. Perform duties of a layout technician (complex).
- C1. Gather pertinent support data from a variety of sources such as computer output and survey notes.
 - C2. Perform engineering calculations.
 - C3. Layout complex horizontal and vertical alignments.
 - C4. Check and edit complex traffic control diagrams.
 - C5. Perform complex drafting associated with the above.

The classification specifications for Engineering Technician 4 state in part:

This is journey level engineering technician work in the planning, design, construction, maintenance and operation of transportation facilities. Positions allocated to this level differ from those allocated to lower levels by assignment of different duties; independence of work; and complexity of work. (emphasis added)

Examples of typical duties...

These positions assist the construction project manager or design squad leader, occasionally function as the project leader for small construction projects or function as a design squad leader...Specific construction duties include:...direct and train inspectors; direct staking crews as construction survey chief; assist project supervisor in keeping records, reports, diaries, final pay quantity records and inspection records. (emphasis added)

The specifications for Engineering Specialist-Transportation-Journey state under the heading of "Survey Crew Chief":

Survey Crew Chief

This position is generally located in the Construction and Design Sections of a Transportation District Office. The duties are divided between the sections with approximately 60% allocated to construction and 40% allocated to design, although the percentages can vary. In both sections, the position functions as survey crew chief, including establishing horizontal and vertical controls, training personnel, and keeping detailed diaries and records. In design, the position functions as the survey crew chief on original surveys under the direction of the district survey supervisor. The position may also assist the project engineer on major/complex projects and function as the project manager on routine construction projects, although their duties are generally 20% or less. The position may direct lower level engineering specialists or engineering technicians.

Yttri's position is comparable to the Engineer Technician 4 position, District 3, DOT, held by Edward C. Matz, Jr. Matz's working title is Design Assistant-Construction Survey Crew Chief and Inspector. Construction survey crew chief duties and related construction duties account for 70% of Matz's time. The other 30% of Matz's time is designated for design work such as layouts and special detail drawings. This latter portion of the Matz position is comparable to Yttri's duties described in Goal C of his PD at issue.

The Daniel J. Faust position in DOT which was reallocated to Engineer Specialist-Transportation-Senior and the Dennis J. Dreier position CADD Specialist-Journey in DOT, offered by Yttri for comparison, are not comparable to the Yttri position. The primary responsibility of the Faust position -- eighty

percent -- is as a *design* survey crew chief. The Dreier position is described in a different set of classification specifications. Also, the position of Steven M. Jeidy, offered by Yttri, is not comparable. This position was allocated to the Engineering Specialist-Transportation-Journey level, because, unlike the Yttri position, it functions as assistant project engineer and fits an allocation pattern not applicable to Yttri.

The Darrell M. Parkinson position, District One, DOT, is illustrative of Engineering Specialist-Transportation-Journey positions in the survey crew chief allocation pattern. This position functions 70 percent of its time as construction survey crew chief and 30 percent as original-design survey crew chief.

The Yttri position fails to meet the journey level specification requirement of functioning as both a construction survey crew chief and a design survey crew chief.

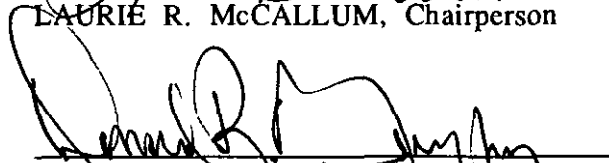
ORDER

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

Dated: March 9, 1994 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

DRM:dkd


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

Parties:

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**NOTICE
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION**

Petition for Rehearing. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

Petition for Judicial Review. Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)

2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)