

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LINYING WU, Appellant,

vs.

UNIVERSITY OF WISCONSIN – MADISON, Respondent.

Case ID: 23
No. 70901
PA(der)-274

DECISION NO. 33344-B

Appearances:

Linying Wu, 708 Sundance Drive, Madison, Wisconsin, appeared on her own behalf.

Sierra Beckles Young, Office of Legal Affairs, University of Wisconsin – Madison, 361 Bascom Hall, 500 Lincoln Drive, Madison, Wisconsin, appeared on behalf of the University of Wisconsin – Madison.

DECISION AND ORDER

Linying Wu filed an appeal with the Wisconsin Employment Relations Commission, pursuant to § 230.44(1)(b), Stats., asserting that the University of Wisconsin - Madison should have reclassified her Library Services Assistant – Advanced position to the classification of Librarian as she requested. The Commission assigned the appeal to Examiner Karl R. Hanson, who conducted a hearing on April 5 and 6, 2016, in Madison, Wisconsin.¹ The parties filed written arguments and responses, the last of which was received on May 4, 2016.

On June 15, 2016, Examiner Hanson issued a Proposed Decision and Order dismissing the appeal. Objections were filed as was a response and the matter became ripe for Commission action on July 26, 2016.

¹ For economy of the Commission's resources and given the common witnesses among them, the Commission ordered the hearing in this matter be consolidated with the hearing for another appeal brought by Wu after the Office of State Employment Relations ("OSER") reallocated her position to the Library Services Assistant - Advanced classification following a classification survey, and with hearings for two similar appeals brought by Karen Rosneck against OSER and the University of Wisconsin - Madison.

Being fully advised in the premises, the Commission makes and issues the following:

FINDINGS OF FACT

1. Linying Wu is employed by the University of Wisconsin - Madison in a classified civil service Library Services Assistant – Advanced (“LSA-Adv”) position.

2. In 2011, the University of Wisconsin - Madison rejected Wu’s request that her LSA-Adv position be reclassified to a Librarian position in the classified civil service.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

CONCLUSIONS OF LAW

1. The Wisconsin Employment Relations Commission has jurisdiction to review this matter pursuant to § 230.44(1)(b), Stats.

2. The majority of Linying Wu’s duties at the University of Wisconsin – Madison are not best described as the duties of a Librarian.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

ORDER

The appeal is dismissed.

Dated at Madison, Wisconsin, this 18th day of August 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Section 230.44(1)(b), Stats., provides that the Commission has jurisdiction to hear appeals from state employees (including those employed by the University of Wisconsin - Madison (hereinafter “UW - Madison”)) alleging that the director of OSER², or an appointing authority delegated such power by OSER, did not properly classify the employee’s civil service position. The appellant has the burden to demonstrate that her position is correctly classified at the requested level. It is not sufficient to meet this burden by merely showing that UW - Madison’s decision to classify the position at a particular level was incorrect.

Linying Wu alleges that in 2011 the UW - Madison should have granted her request to reclassify her LSA-Adv position to a Librarian position in the UW - Madison’s classified civil service. To meet her burden in this matter, Wu must demonstrate that the majority of her position’s duties “best fit” the Librarian classification. She has not met her burden.

In her arguments filed after the hearing, Wu summarizes her own testimony regarding the duties she performs which are also reflected in her position description. These duties include “ordering, receiving, payment and check-in work for library materials in the East Asian languages” which “requires [her] to read title pages of books, serials, DVDs, and CDs, as well as to identify bibliographic discrepancies, resolve problems, communicate with other staff and vendors, and make decisions associated with acquiring materials for the library’s collection.”

Wu is responsible for tasks associated with the acquisition of materials for the UW - Madison’s general library system. OSER’s class specification for the position of Librarian provides that the employee must perform the full scope of duties related to one or more librarian functions. Those functions include acquisitions among others. To perform the full scope of a function’s duties, the employee must possess broad discretion.

Wu has discretion to determine what physical copy of a work to obtain and from what vendor. She is not responsible, however, for the full scope of acquisition duties in that she does not decide what works to acquire or manage a budget associated with the acquisition of works. The acquisition duties she performs are complex, but they are dictated by established procedures.

Librarians in Wu’s division perform many of the same acquisition tasks performed by Wu, with additional broad authority for the supervision of employees and/or the management of special collections. Wu does not supervise other employees or manage a special collection which are other duties of a Librarian. Although Wu asserts that she manages a specialized East

² Now, the administrator of the Department of Administration’s (“DOA”) Division of Personnel Management. In July 2015, OSER was absorbed into DOA as its Division of Personnel Management.

Asian collection, the record does not support this assertion. The record supports the conclusion that she performs repetitive and defined acquisition tasks in support of the UW - Madison's East Asian language collections.

Wu does perform work related to the management of East Asian language material gifts and exchanges. This aspect of Wu's work is similar to the work performed by a UW - Madison unclassified service employee with the title "Gift/Exchange Academic Librarian." The record, including Wu's position description, however, is silent regarding how much of Wu's time is spent performing this gift and exchange work. The failure to establish how much of her time is spent on such gift and exchange work results in no credit for Wu in our efforts to determine how much of her time is spent performing the duties of a Librarian.³

Wu avers that her expertise in East Asian languages is best described as professional work. Wu's expertise in East Asian languages is a professional skill. Her native language skill would otherwise be acquired after a prolonged course of study. Wu's position description states that she uses her East Asian language skills for about 75 percent of her work day.

She asserts that the LSA-Adv position is paraprofessional and a Librarian position is professional. Wu argues her position should be that of a Librarian because her job duties require professional language skills.

While it is necessary for her to possess a professional skill – expertise in East Asian languages – to perform the duties of her position, those duties are still not best described as the duties of a Librarian. The Librarian classification contains no requirement for an employee to possess professional language skills. Instead, the Librarian classification requires that an employee possess professional skills in the functions of a Librarian such as acquisitions or management of a special collection.

Wu's position and situation can be distinguished from those of former UW - Madison Librarian Milan Radovich. In 1983, the Personnel Commission, a predecessor of this Commission, determined that Radovich's position should be reclassified as a Librarian. In that matter, the classification specification of Librarian was different and Radovich demonstrated that he performed the full and broad scope of duties associated with a Librarian's acquisition function, including the authority to decide what materials to acquire. As noted above, Wu does not have authority to decide what materials to acquire for the UW - Madison.

Wu's work is complex and requires her to use native language skills otherwise acquired after a prolonged course of study. The duties and tasks she performs using that professional

³ Up to 49 percent of Wu's duties may be those of a Librarian without her position being classified as Librarian. Wu's position should only be reclassified as Librarian if she performs a Librarian's duties for a majority of her time.

skill, however, do not rise to the level of the professional Librarian's duties contemplated by the classification specification for that position.⁴

Dated at Madison, Wisconsin, this 18th day of August 2016.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Scott, Chairman

Rodney G. Pasch, Commissioner

James J. Daley, Commissioner

⁴ While it may seem incongruous that she is required to possess a professional skill to perform what is defined as a paraprofessional job, the same would be true of a clerical employee who must possess a complex foreign language skill in order to complete non-professional clerical duties.