

PATRICIA FRANKE,

**

OFFICIAL

Appellant,

**

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

vs.

**

C. K. WETTENGEL, DIRECTOR
STATE BUREAU OF PERSONNEL,

**

Respondent.

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Hearing was held in this matter by the State Board of Personnel on June 15, 1973, in Room 1120-D, State Office Building, 1 West Wilson Street, Madison, with the following Board members present: William Ahrens, Chairman, and Charles Brecher, John Serpe, Susan Steininger, and Percy L. Julian, Jr. were absent. The appellant appeared personally and was not represented by counsel. The respondent, C. K. Wettengel, Director, State Bureau of Personnel, appeared by D. J. Sterlinske, Attorney, State of Wisconsin, Department of Administration. It was specifically agreed by and between the appellant and the respondent that Board members Ahrens and Brecher would hear the matter on behalf of the Personnel Board and that the determination and decision herein would be only by those Board members attending the hearing. The Board having reviewed the transcript of the proceedings, together with all exhibits admitted into evidence, makes and files the following:

FINDINGS OF FACT

1. That Patricia Franke was a permanent classified employe, employed by the State Department of Health and Social Services with the Division of Family Services and stationed at the Milwaukee District Office. The appellant's classification was Social Services Administrator 2, salary range 1-15, and her duties were that of a Day Care Unit Supervisor.

2. Chapter 270, Laws of 1971, became effective April 29, 1972; upon publication and created a number of statewide bargaining units. The Bureau of Personnel, to accommodate this unit bargaining within the classified service, reviewed the Social Services Administrator series with the Department of Health and Social Services. As the result of this survey, the Respondent Director of

the State Bureau of Personnel, on November 15, 1972, presented to the State Personnel Board for its approval his recommendation to abolish the entire Social Services Administrator series and to create a series of Social Services Specialist 1, 2, 3; Social Services Supervisor 1, 2, 3, 4; and a new Social Services Administrator series 1, 2, 3, 4, 5. The new Social Services Administrator series was developed to identify those positions with managerial responsibilities and included Bureau directors, regional administrators, and assistant division administrators. These exempt positions were limited only to those persons who exercised management prerogatives and are incumbents ineligible for membership in a collective bargaining unit.

3. The Social Services Supervisor series was created for the purpose of identifying those positions which were truly supervisory in nature as defined by the Wisconsin Employment Relations Commission. A study of the organizational structure of the department was made and the number of supervisory positions qualifying were determined necessary to meet the operating needs of each of the sub-units within the department. The balance of the staff positions providing professional services were identified within the Social Services Specialist series.

4. The Personnel Board approved the Director of the Bureau of Personnel's recommendations to become effective November 26, 1972, and approved the position standards of the newly created series. The Director then laterally reallocated all positions within the department as they qualified for the newly created classes.

5. The appellant was assigned to the Voluntary Agencies Section of the Milwaukee region and her working title was Day Care Unit Supervisor. Two supervisory positions were identified within the Voluntary Agencies Section of the Milwaukee Region Office.

6. The chief of the Voluntary Agencies Section, Gary Kirst, is responsible for the supervision of this section, and he was laterally reallocated to the new Social Services Supervisor series. In addition to

his supervisory position in the Voluntary Agencies Section, Milwaukee Region Office, the position of assistant chief of this section was created and designated as the other supervisory position in this unit.

7. Mae Lorber was identified as the assistant chief and her position was likewise laterally reallocated to the Social Services Supervisor series.

8. The regional office in Milwaukee has a larger staff than all other regional offices, and the Voluntary Agencies Section has 12 authorized positions with the position of chief and assistant chief being designated as the only supervisory positions within this unit.

9. The appellant, Patricia Franke, although having the working title of Day Care Unit Supervisor, performs minimal personnel supervisory functions and is charged with the program responsibility of the licensing and supervision of day care centers within the Milwaukee area.

10. The position standards as presented by the Respondent Director and approved by the Personnel Board specifically identify the supervisory position of chief of the Voluntary Agencies Section within the Social Services Supervisor 3 specifications (salary range 1-16). The position of assistant chief, Day Care Center, Milwaukee Region, Division of Family Services, is specifically identified within the Social Services Supervisor 2 classifications (salary range 1-15).

11. The position of the appellant, Patricia Franke, as a unit co-ordinator, Division of Family Services, co-ordinating the activities of the day care program, is specifically identified in the Social Services Supervisor 2 series (salary range 1-15). The Director laterally reallocated the appellant's position from Social Services Administrator 2 (salary range 1-15) to Social Services Specialist 2 (salary range 1-15) effective December 10, 1972. The appellant presents this appeal from this reallocation.

OPINION

The Board having examined the transcript, together with the exhibits presented during the hearing, concludes that this is a frivolous appeal. The testimony clearly indicates that the Director's reallocation was a lateral one and that no change has been made in position duties or pay. The Social Services Administrator class was abolished and three new classes created to accommodate the collective bargaining process and positions identified by the class specifications only for the purpose of identifying to which bargaining unit each group was eligible to be assigned. The identification of the title of the position was made for this purpose only and no change in position duties occurred. The Milwaukee regional office is the largest one within the state and a different organizational and allocation pattern was authorized. To accommodate the size of the unit of one chief and 12 other positions, an additional supervisory position of assistant chief was created to fulfill the supervisory needs of this unit. Most of the positions in this unit are professional in nature, and the incumbents operate in a semi-independent manner and personnel supervision is minimal even at the section chief level. Likewise, the supervisory duties of the assistant chief under these circumstances are minimal. In order to maintain supervisory control, the central personnel office, together with the divisional office, must clearly identify supervisory channels and positions, and it then becomes the responsibility of the lower echelon supervisory personnel to reconstruct the lines of supervision to accommodate the unit's supervisory needs. Failure to comply with these directives indicates poor managerial ability and indecisive personnel administration. The Board is not impressed with an attempt to maintain "status quo" as such and to competently administer an effective program of community service requires constant change to respond to these needs as they arise. The advent of collective bargaining requires a strict channeling of the supervisory chain of command, and the

testimony produced at the hearing clearly indicates that the section chief failed to structure his unit as required by the central personnel office. Such failure cannot bestow any supervisory responsibilities upon the appellant, because all section supervision is minimal at best at all levels. Personnel supervision is a vital responsibility of management and should not be fragmented, but rather, all lines of supervision should be clearly marked and identified. To accomplish this within this small unit indicates a revision in supervision responsibilities is necessary. This, however, is a management function and not a Board function.

The Board having entered the foregoing Findings of Fact and Opinion enters the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction to hear this appeal by the appellant.
2. The Board's approval of the position qualification standards as proposed by the Director was a valid exercise of its function.
3. That the approved position standards clearly identify the appellant's position as a Social Services Specialist 2 and that the Director's lateral reallocation of the appellant's position from the abolished Social Services Administrator class to Social Services Specialist 2 class is a valid exercise of his discretion and is hereby ratified and affirmed.
4. The appellant has failed to meet her burden of proof showing that she possesses any basic personnel supervisory functions within her position duties and her appeal should therefor be dismissed on its merits.

ORDER

The Board having entered its Findings of Fact, Opinion, and Conclusions of Law herein, makes and files the following Order:

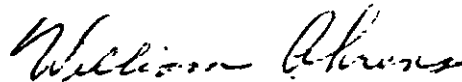
1. It is ordered that the reallocation of the Director of the Bureau of Personnel laterally reallocating the appellant's position from

Social Services Administrator 2 to Social Services Specialist 2 (salary range 1-15) is a proper exercise of his discretion and is hereby ratified and affirmed.

2. It is further ordered that the appeal from the Director's reallocation action be and the same is hereby dismissed on its merits.

Dated at Madison, Wisconsin this 6th day of July, 1973.

STATE PERSONNEL BOARD, BY



William Ahrens, Chairman